Supreme Court, U. S.
FILED
AUG 12 1974
MICHAEL RODAK, JR., CLERK

APPENDIX

VOLUME III

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-1462

MARK WHITE, ET AL.,
Appellants

V.

DIANA REGESTER, ET AL.,,
Appellees

MARK WHITE, ET AL.,
Appellants

V.

FRANK A. ESCALANTE, ET AL.,
Appellees

MARK WHITE, ET AL.,
Appellants

V.

JAMES GASKIN, ET AL.,
Appellees

MARK WHITE, JR., ET AL.,
Appellants

V.

WANDA L. CHAPMAN, ET AL.,
Appellees

Appeal from the United States District Court
for the Western District of Texas

FILED JANUARY 30, 1974

PROBABLE JURISDICTION NOTED MAY 28, 1974

you ten minutes if you want that. We hope you won't take that much time. We again plead with you, but we can only give you a maximum of ten minutes. Now, remember we do have some slight comprehension of this case.

Now, with that admonition, let's have it. Mr. Gladden, lead off -- ten minutes maximum.

ARGUMENT IN BEHALF OF THE
ESCALANTE PLAN FOR TARRANT COUNTY

MR. GLADDEN: If it please the Court, I would like to reflect just a very brief comparison between the various plans. The Escalante plan, which the Court had the opportunity in the feasibility application to see and I am sure is familiar with that was presented to the Court in the original trial, does do, of course, the basic thing of establishing a primary district where a 72 percent minority exists. We feel like that 72 percent figure strikes a mean between Representative Finney's plan which is a 66 percent black without serious consideration for Chicanos and the 50.3 or 53 percent of the Republicans and their minority district. We did take into consideration the various factors that would tend to diminish or

reduce the voting strength of the ethnic minorities in that district and feel like the 57 and 59 percent that the La Raza plan or the Gaskin plan provides is something less than enough to -- that's a percentage of population -- Plans A and B of the Gaskin plan is 57 and 59 percent minority, and their two plans, we suggest to the Court, that that is substantially less than---.

JUDGE GOLDBERG: What do you have in comparison?

MR. GLADDEN: Seventy-two percent in our primary district and forty-three percent in our secondary district, and that's the one where all the testimony shows a transition or a migration of blacks into it since 1970. Our secondary district is 43 percent black, three percent Chicano with migration. Our primary district is 70 percent. We feel that that is a sufficient number as to afford them a meaningful opportunity, doesn't guarantee it, but does afford a meaningful opportunity. The Republican plan is far short with 53 percent. The Finney plan does take care of one black representative, does guarantee one black representative, but in so doing, it eliminates any meaningful participation or influence in any

other district. We suggest to the Court that this plan also -- our plan also took into account the poor Plaintiffs that we brought this suit on behalf of in the four districts with low income, one of them black, one of them potentially black and two white. None of the other districts took into consideration those Plaintiffs and, as pointed out in our presentation, this Court should not change their circumstancefrom a multi-member district submergence into a single-member district submergence in the broad middle-class white community. The Gaskin plan does do that. Every one of their districts except the two minority districts are above $11,000.00, which is roughly the mean family income of our community. All the rest of the districts pretty well did that, too. That, really, in essence, is what we have to say. We think our plan is best. I'm sure everybody else thinks their plan is best. We feel like the Court should adopt the plan that best represents, I think, divergent communities of interest in the community. Some of the other parties think that you ought to homogenate them in nine districts as they have been homogenated in the multi-member district. That's our approach.

We ask the Court's consideration of those. I won't talk about specifics, because you do have the plans before you, and you can take a look at them.

Thank you.

JUDGE WOOD: Mr. Gladden, are any of the plans submitted unconstitutional?

MR. GLADDEN: Yes, I suggest most of them are except ours.

JUDGE WOOD: O. K.

(LAUGHTER)

MR. GLADDEN: If, Your Honor, this Court--and we don't know what the Court did, but if this Court bought my sale of poor whites being afforded constitutional rights, then most of them did not. In fact, all the testimony is nobody took into consideration the John Dillard community of low income white people. I suggest that they do have interests that should be protected under the Constitution and that none of those did, and we did show that they have been represented in the multi-member districts, so I would say yes.

JUDGE WOOD: You have answered the question. All the plans are unconstitutional except yours.

MR. GLADDEN: I don't know that they are,

but depending upon the Court's holding---.

JUDGE WOOD: Thank you very much, Mr. Gladden.

JUDGE GOLDBERG: Mr. Bonner, will you be the spokesman for your group?

MR. BONNER: Yes, sir.

ARGUMENT IN BEHALF OF THE GASKIN ET AL PLAN FOR TARRANT COUNTY

MR. BONNER: I'll make every effort to be as brief as possible.

JUDGE GOLDBERG: Thank you.

MR. BONNER: Summarizing the argument for our plan, we want to state to the Court that ours was an effort to fashion a redistricting plan that would attempt to start to correct what we see as decades of political deprivation that has been visited upon two particular segments of the community, the black and Mexican-American, who by all testimony here have been virtually totally excluded from the political process, starting from slate-making through the elections, for reasons which we believe are because of race and color.

In order to deal with this history of exclusion and isolation, political isolation, we

have proposed a plan which creates two districts, in which the minority communities composed a majority, an American majority, and also three other districts in which the minority communities have input or voice in determining who will be elected from those districts. We have not made the claim or have not argued that black or a black person is entitled to be elected. We have simply stated or tried to present a plan that would allow them to have a maximum possible access to the political system.

We feel that most of those plans have at least one thing in common. They virtually ignore the viable interests of the Mexican-American community in Fort Worth. Everybody's plan at least makes a token effort to guarantee one seat to part of the black community, District 32. We would ask that the Court not be trapped into the stereo typical thinking that the Mexican-American community in Tarrant County is so dispersed -- you have the figures before you -- there is testimony that those are viable communities, recognizable communities, whose interests are legion.

Most plans do not allow the brown community any sort of political leverage whatsoever. Ours

attempts to do that. We would also point out to the Court that most of the plans, particularly the plan submitted by the State and by the Republican Party, isolates the black community further. One district where most of the blacks are, they are allowed to elect one representative. We submit that this basically takes the blacks off the backs of all other representatives. They have one representative who accounts for their interests. None of the other representatives has to worry about the black community or perhaps about the vote of one black legislator. We feel with the possibility of two representatives speaking for these two communities, well, clearly their political leverage is doubly enhanced.

Finally, in response to Mr. Gladden's point about the comparatively low minority percentages, it is true that the black and brown communities have in the past participated in elections with say less fervor than the other communities. We submit that this lack of participation can be directly attributed to their realization that they were unable to determine or even significantly influence the outcome of elections. We also submit that experience in those other districts of the

state that are now divided into single-member districts would demonstrate that when those communities realize that they do have a voice in determining who will speak for them in Austin, the voter turnout increases. Interest in the elections is enhanced. Participation increases so that you don't really need a 72 percent majority or 68 percent majority. It is entirely conceivable that a simple majority of 57 or 59 percent, as we proposed, would be sufficient to allow these communities access to the system.

That is our presentation, and we urge adoption of our plan.

JUDGE GOLDBERG: Thank you, Mr. Bonner.

Mr. George?

ARGUMENT IN BEHALF OF THE REPUBLICAN PLAN FOR TARRANT COUNTY

MR. GEORGE: Quite briefly, Your Honor, the Republican plan that was presented before the Court constitutes in our opinion the plan that most fairly takes into consideration all the interests of Tarrant County than any plan presently before you.

Mr. Bonner says that we isolate the black

community into one district. I believe if he rechecks his figures, he will note that we have significant black input into three districts, one district that constitutes 48 percent of the population, one district in which they constitute approximately 27 percent of the population and the southern edge or area of Tarrant County which we talked about as being a black, middle-class migration area. We are talking about a third area in the core city where the total minority population constitutes five percent of the population, all of which, if Mr. Bonner's theory about the voter participation of these groups and their impact on the election is correct, would, it would seem to me, indicate under the Republican plan the blacks and Mexican-American residents of Tarrant County would have more leverage than under any of the plans that they presented.

Second, we would like to present that our plan is from an administration standpoint, from the community integrity of the political subdivisions, from the geographic considerations, lakes, freeways, railroad tracks and other geographic considerations in the practical world of administration of operating and administering an

election are important, is by far the most -- takes into consideration these factors by far more than any of the other plans presented.

And finally, we would like to point out that the Republican Party in Tarrant County is not just a party of white upper-class people. The majority of our nominees for the Legislature in 1972 were black, and the Republican Party has significant interest in seeing that the black, particularly the black middle class, has a significant input into the legislative process in Tarrant County.

Thank you.

JUDGE GOLDBERG: Thank you.

Mr. York?

Oh, you want to say something, Mr. Korbel?

MR. KORBEL: I think most everything has been said today that was planned regarding the plans presented for Tarrant County. I would like to inform the Court, however, that the Plaintiffs Moreno et al strongly urge the Court to adopt the plan submitted by the Intervenors Gaskin.

MR. RICHARDS: We have previously indicated our support for the Escalante plan.

ARGUMENT IN BEHALF OF THE STATE'S PLAN FOR TARRANT COUNTY

MR. YORK: May it please the Court, the United States Supreme Court in the case of Weiser versus White recognized that the issue of legislative intent was a controlling issue in the adoption of plans by a Court sitting as this Court is sitting, and in that case the Court was presented with two alternative plans, one Plan B which was very similar to Senate Bill 1, the legislative effort to redistrict the state into congressional districts, Plan C, which had deviations which was acceptable and was vastly different from what the Legislature had done.

The three-judge court adopted Plan C, as this Court is aware, and was held by the United States Supreme Court to have been in error in doing that principally because there was another plan available, Plan B, which almost identically tracked what the Legislature had done, except it reduced the deviations to a point which was constitutionally acceptable, and the United States Supreme Court said that the Court below erred in adopting Plan C and should have, given the alternative, adopted

Plan B, which tracked the legislative intent. We think that this Court---.

JUDGE GOLDBERG: What legislative intent do we have here? What can we track?

MR. YORK: You have the intent evidenced by the testimony given by Representative Finney, Your Honor.

JUDGE GOLDBERG: You mean to suggest, Mr. York, that the Supreme Court of the United States was talking about the representatives from Tarrant County when it made that statement?

MR. YORK: I don't believe he's ever met any of them or they him.

JUDGE GOLDBERG: Well now, you know that wasn't the intent of the question. Don't you think the Supreme Court of the United States was referring to the legislative action as a body?

MR. YORK: I think that's correct, Your Honor.

JUDGE GOLDBERG: That's all I mean.

MR. YORK: But the point we made through Mr. Finney's testimony and which I think the Court could almost take judicial notice of, is that in the legislative reapportionment process in the great majority of cases what happens is that

when a delegation from a county agrees upon -- will be agreed upon by the Legislature as a whole, and taking it in that light, we do have the intent of the Legislature in that regard.

We have before this Court testimony from Representative Finney, speaking for a vast majority of the representatives of the District 32 that was in question, a plan adopted by the Governor of the state and by the Secretary of State and then advanced to this Court as their plan. It is a plan, Your Honors, which does not take into account economic interests, because economic interests have never to my knowledge been held by any court to be a standard by which reapportionment of this sort should be done. It also results, Your Honor, in fewer pairings, fewer pairings of incumbents than any other plan which is before the Court, I believe, and the Weiser Court last summer recognized that the protection of incumbency is not a vice in a reapportionment plan and that it is a legitimate end and a legitimate object of the drawing of reapportionment plans.

JUDGE GOLDBERG: Do you think if the order of this Court had a provision in it that a

representative could run from any part of the district for this election, that the current problem might be diminished?

MR. YORK: I would suspect that it would, Your Honor.

JUDGE GOLDBERG: Proceed.

MR. YORK: This plan also results in and it is a contiguous plan, as the Court can see. It is, I should say, a compact plan, a plan which has districts that are drawn in a compact way which have not been characterized to my knowledge as being gerrymandered. It does operate in District H to virtually guarantee, I suppose, 66 percent black, the election of a black representative. Blacks constitute some 12 percent of the population of the county. If they were successful in electing a black representative, they would have some one-ninth of the representatives in a county in a district in which they represent some one-ninth of the population.

You have heard the testimony from Representative Finney that the Mexican-American population in Tarrant County is not capable of being grouped in his view into a district which would ever insure them of the election of a representative

of their particular ethnic group.

And finally, there is a secondary district, if we can use that terminology, in the Tarrant County plan. It has been marked as B-W-1, which is about 25 percent minority in its makeup. This differs from the secondary plan proposed by the Gladden group. They have about 40 percent in their so-called secondary district. Those percentages, we submit to Your Honors, are not markedly different, and where there is a clear showing of the intent of the people elected from, as Mr. Finney put it, that group is elected from the whole county or from the whole district, and they have spoken here to the Court as representatives of that whole district, having been elected by them, whereas, others who have come before the Court have come representing this group or that group or another group. We think the Court should adopt the plan marked B-W-1, the plan of the Governor and the Secretary of State.

Thank you.

JUDGE GOLDBERG: Thank you very much, Mr. York.

Now, with respect to the next county, which is Jefferson, how much live testimony have we got

here?

MR. RICHARDS: We plan now to call a witness apparently that we had not originally intended to, because the State has indicated they intend to do so.

JUDGE GOLDBERG: So you have one?

MR. RICHARDS: I have one.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: Yes, if there are going to be live witnesses from Jefferson County, I have one witness. We had originally planned to stipulate to the demographic facts and just argue the case.

JUDGE JUSTICE: Why can't that be done?

MR. RICHARDS: Because the State won't agree.

JUDGE GOLDBERG: How many live witnesses do you have?

MR. YORK: We have only one, Your Honor.

JUDGE JUSTICE: Why can't there be the stipulation?

MR. YORK: I'm not really advised what the stipulation is.

JUDGE JUSTICE: Why listen to three witnesses if you can stipulate?

MR. GEORGE: We had suggested to the State

and Counsel for the various Plaintiffs had agreed on the non-Tarrant County counties that we could simply -- Counsel could stipulate the demographic facts of where the various people lived and what racial or ethnic group they belonged to and simply explain the plan from the podium to the Court. I was informed by Mr. York on Friday that they wished to present live testimony, so I assumed that stipulation would not be available.

MR. YORK: Your Honor, we are aware of the problems that face the Court in terms of time, but we also believe that we would be falling down in our duty if we didn't afford the people who drew the plans that had been adopted by the Secretary of State---.

JUDGE GOLDBERG: All right, proceed.

MR. RICHARDS: May it please the Court, one brief matter -- the plan that we filed, the Wright Intervenors plan in Jefferson County has also been adopted by the (word unintelligible to reporter) Plaintiffs in Jefferson County, and so to that extent represents the interests of those Plaintiffs.

We would call William Oliver to the stand, please.

TESTIMONY PRESENTED CONCERNING
JEFFERSON COUNTY

WILLIAM BOYD OLIVER, III,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDS:

Q Could you give us your full name, please, sir?

A William Boyd Oliver, III.

Q Mr. Oliver, did you not previously testify from the stand in this case, but you did give a lengthy deposition, did you not?

A That's correct.

Q And you are the same Reverend Oliver whose deposition was offered in evidence in this case?

A That's correct.

Q Can you tell us what role you played and

what role the black community of Jefferson County played in formulating the proposal which we have offered in evidence, or offered the Court as our proposed plan for Jefferson County?

A Yes, I can. I for a little over ten years have been a member of the Executive Board of the National Association for the Advancement of Colored People, Beaumont Branch, and for some time, as the question of redistricting came up, we felt it incumbent upon us to study the problem and to be prepared to make some suggestions when and if the occasion arose. As this case began to proceed, we then began to work on a specific plan of redistricting for District 7, which covers a major portion of the people in Jefferson County.

Q That's the three-member district in Jefferson County?

A That's correct, multi-member district in Jefferson County.

After preparing two plans, we then mailed out letters to a large number of what we considered the black leadership across the county, both the south county in Port Arthur and in north county, Beaumont and called a public meeting and asked everyone to come and discuss the various options as they affected the black community.

At that meeting a plan was unanimously

adopted, and that plan was later forwarded to you for presentation to the Court.

Q And that is the plan which appears here, as we have put it up on the board. Is that correct, Mr. Oliver?

A That is correct.

Q In order to understand Jefferson County's problems in terms of redistricting and the color combinations you have on the plan, a portion of Jefferson County which is reflected on the plan in yellow has been removed previously and attached to Legislative District 8. Is that correct?

A That is correct, and the other portion---.

Q That is a portion here which is part of Census Tract 112. Is that correct?

A That is correct.

Q That's heretofore been taken away from the county and tied to Legislative District 8, which is a single-member district. Is that correct?

A Yes, it is.

Q The large white area of Jefferson County which appears on this map has similarly been removed and attached to Legislative District 5. Is that correct?

A That is correct.

Q So, as I understand -- and that, too, is a single-member district that involves two or three rural counties. What are those, by the way, do you know?

A Hardin and Jasper.

Q At least, if I am clear, when you began to deal with Jefferson County problems, you were dealing with only a portion of the county. Is that correct?

A That's correct. We were dealing with the portion of the county called District 7 in the shape of an hourglass, by the way, and very narrow in the middle, presenting a serious problem.

Q Now, you have created or we have proposed to the Court three single-member legislative districts in Jefferson County, and they are reflected there on the colored map. Is that correct?

A Yes, they are.

Q Now, I have shown you, have I not, a letter from the attorney for the Republican Party, criticizing our proposed legislative plan because it did not create a majority black district. You have seen that letter?

A Yes, I have.

Q And I suppose he had specific reference to our proposed 7-A, the blue area on the map. Is that correct?

A Yes, I believe it is.

Q And I think his letter indicated that under census figures contained only 48 percent, I believe, black?

A 48.88.

Q All right. Can you tell us, as the black

community viewed it and as you viewed it, what the answer to that particular contention is?

A The answer is more than one thing.

Q All right.

A First of all, we dealt with in drawing the districts communities of interest, shopping patterns, school habits, racial composition and other concerns, and in drawing this, we attempted to have districts to the best of our ability within the hourglass that we were working with to have compact districts. In doing so, the big district or 7-A, the one that has the highest number of blacks in it, what we knew, in addition to the fact that the '70 census reflected a 48.88 percent black population, was that there had been significant out migration in that proposed district, as well as some influx of new black families from rural areas plus increase in black population that's greater than the increase in white population, and to substantiate that and to measure to some extent the magnitude of that out migration we have done a little survey both -- first of all, visually, and in other more systematic ways. We took the school census figures for the school year '69-70 and compared them with the school census figures for the current year, '73-74. We did this in both the school districts and examined each school that is within those districts. Especially important to that analysis were the schools that were not

100 percent black already, because they would not indicate migration. We looked at ten schools in the Beaumont Independent School District and six school districts in the South Park School District. We did the percentage increase in black, analyzed that in the Beaumont Independent School District. The percentage increase during the period since the '70 census was 23.5 percent.

Q That would be in large measure in the area of the (indicating)?

A The northern part generally of that, though the school district lines do not correspond to that.

Q I realize that.

A And in the South Park Independent School District the increase in black scholastics or enrollment was 17.78 percent. The average over the entire proposed legislative district was 21.35 percent. I might add one other note to that. That also includes three schools which are physically outside the district but do serve schools within the district, and both students within and without. Therefore, their percentage increase is not quite as high as those who are physically in that district. If you utilize that figure to interpolate in terms of what has happened in terms of migration, you would discover the district is 70 percent plus black.

Q That's District 7-A?

A That's right. Now this figure, I think, can be supported to some extent by looking at also the new permits -- the permits for new home construction issued by the City of Beaumont, and based on that, we have judged that we have been very conservative when we say that this newly drawn district is now 65 percent black and, therefore, we feel like the contention of the Republican Party in Jefferson County is not correct in that regard.

Q And the proposal that we have made to the Court is a proposal that represents the view of the black community of Jefferson County. Is that correct?

A Yes, I think it does. I know of no other effort to draw together a wide cross section of leadership in public meetings and to spend a great deal of time in preparation and adoption, and we adopted it unanimously. Since that time there has been a great deal of discussion at other meetings within the black community.

Q So, as I understand then, 7-A, the blue portion of our proposed district, which, I suppose, by the way, does follow census tract lines, does it not?

A It does generally. There are places where it does not. There are places where it follows census block lines, because the census tract lines do not always relate to communities of interest and the question of compactness and the question of the distribution of our black

population.

Q The green district, which is our proposed District 7-C, why was it so constructed, as you viewed it?

A Well, it, again, dealt with the two things I mentioned. We had a strange, shaped multi-member district to begin with. We drew two districts which we believe to be compact and to have a common community of interest. That means one of the districts in that process, one of the three, does not look nearly as compact as the others, and without doing damage to another important criteria of redistricting, which I think we could not have drawn three compact districts with the same community of interests.

Q The green area is Port Arthur, I take it, and the mid-county towns. Tell us those towns.

A Port Neches, Nederland, Bear Ridge, Griffin Park, Groves---.

Q And Port Arthur?

A Port Arthur.

Q And that essentially is an area that is all white. Is that correct?

A That's correct. The minority population is negligible.

Q Then our District 7-B, which is the pink area on the map, is the excess. Is that correct?

A Generally that's right.

Q It ties together parts of Port Arthur and Beaumont?

A But there are ways in which the community of interests are the same there, as well. For instance, in Census Tract 11 in terms of its past voting record, in terms of its shopping habits, in terms of the type of home construction that is there, it has a community of interests with the western part of the City of Beaumont and, therefore, it is included in that district. So the same kinds of things were maintained. In the lower end of the pink district those same criteria were used to keep West Port Arthur, which has a community of interests, black, primarily, separate and distinct from the community of interests of East Port Arthur and mid-county, and it's all kept together and compacted.

Q Now, our map has a little option in it involving 11 people, as I understand. Is that right?

A That's correct.

Q That is this huge census tract -- a portion -- a census tract which, I guess, is all marsh land. Is that right, if it just has 11 people in it?

A It's not very occupied. It involves the Spindletop Oil Field.

Q Oh, I see. So at all events, the proposal we made for the purpose of configuration, you could move that tract into the major district, and that would come out of the

existing District 5. Is that right?

A Yes.

Q It involves the shirt of 11 people?

A We suggest that as an option simply because of its cosmetic effect, I think, on the shape of the district. It is not significantly important, because the district is contiguous anyway without doing that.

JUDGE GOLDBERG: We're running a lot of contests, but beauty doesn't happen to be one of them.

(LAUGHTER)

Q You have had a previous opportunity to examine the Republican plan which has been filed in Jefferson County. Do you have any comment as to it in terms of the matters we have been talking about?

A Yes, I have several comments. The first is that it seemed a little strange to me that they felt the obligation to draw a district of heavy minority representation, and they felt better competent to do that than the black community itself, which had suffered from the discrimination from the multi-member district, but, most of all, and the most important, it seemed to me, their plan begins to alter in significant ways District 5, which is a single-member district, and I think the danger of the Court beginning to alter single-member districts, you're

subject to the domino problem if you begin to alter single-member districts, and their plan also draws a very strange black district that's heavily black that I think has got a horseshoe at one end of it and runs from north to south, and it seems to me to be more subject to the whole question of gerrymandering than any plan I have seen.

Q It does in large measure, though, alter the lines in Single-Member District 5. Is that correct?

A Yes, it does.

Q And incorporates portions of that district into one of their new districts and, I guess, takes some out. Is that correct?

A That's correct. Yes, it does.

Q You had a chance, I know just momentarily, this morning -- we have been told the State of Texas and the Governor has adopted a plan that has been sponsored by some County Commissioners in Jefferson County. Did you have an opportunity to see that plan this morning?

A Yes, I have, and tried to study the figures and map with that plan.

Q First, it redraws both District 5 and District 8, as well as creates single-member districts, does it not?

A That's correct.

JUDGE GOLDBERG: Give me that question again.

MR. RICHARDS: Excuse me.

Q The County Commissioner plan now adopted by the Governor not only creates single-member districts, but it redraws District 8 and District 5, does it not?

A Yes, the point at which it does that removes sections of Jefferson County from District 8 and puts them in one of the single-member districts in the plan. It significantly alters the north part of District 7, putting it into District 5. It also takes in a section of the city limits of Beaumont in District 5 and includes it in one single-member district.

Q What does it do for the black minority of Jefferson County and the proposed three single-member districts?

A I think that that in my judgment is the part that is unconstitutional, because what it does it provide -- and I'll read their own figures -- provides 20.9 percent in one district, 30.9 in another and 22.8 in the third, which, in effect, would simply mean that if that plan is adopted, the black community might as well not register or vote because of all the testimony you have heard in this case.

Q In your view does the Governor's plan do anything to remedy any of the past discrimination against blacks in Jefferson County?

JUDGE GOLDBERG: Answer that question without being a judge.

(LAUGHTER)

Q In your opinion.

A Does it do anything?

Q To remedy it.

A Absolutely nothing.

MR. RICHARDS: That's all the questions we have, Your Honor.

JUDGE GOLDBERG: Mr. George?

CROSS-EXAMINATION

BY MR. GEORGE:

Q Mr. Oliver, my name is Jim George, as you know, and I represent the Republican Party. A few very brief questions.

Let's talk about basically the plan that you testified that a metting of black leaders prepared for Jefferson County.

First of all, not to quibble about it, but were the members of the Republican Party who were black in Jefferson County there?

A I only know of two, and the two in Beaumont

have not participated in any community meeting, because we have not been able to get them out. There is one who is questionably a Republican in Port Arthur. We invited him. His statement to us was that he is an independent this year, but he was invited.

(LAUGHTER)

Q The black Republicans were invited but did not participate?

A No, my testimony is that two of them were not invited, because they have never been to any of the community meetings.

Q O. K., but one was?

A One was invited, that's correct.

Q McElroy was?

A That's correct, Mr. McElroy was.

Q And he said he's an independent this year instead of a Republican?

A Well, in regard to the Legislature, that's correct.

Q O. K.

A And we have met with Mr. McElroy regarding this plan.

Q O. K., the second question is in regard to the districts drawn, you say on the basis of your evidence that what is now the blue district is 70 percent---?

A I would rather understand it as 65 percent.

Q Sixty-five percent black. You said that was a conservative estimate, and I believe you said the highest was 70?

A Yes.

Q That is based upon various factors which you recited. Do you have an estimate -- would you make similar estimates as to the district that you said was 61 percent for the Republican plan, how heavily that would be black now on the basis of the same polls? I assume you applied the same information.

A Yes, that would increase some, too. I do not have the exact figure, because I have only seen the Republic plan -- I did not have a copy of the plan to study by census blocks so that we could do any detailed analysis, so I had to make very general conclusions.

Q O. K., let me ask you a couple of other brief questions. You testified in your deposition in this case that there was a race by a Mr. Elmo Willard for the County Commissioner's seat in Jefferson County. I believe that the district in which he was living as a County Commissioner's district was a single-member district. Would you estimate that the population of that district was more or less -- the black population was more or less than the total population of Jefferson County?

A Are you asking the question, was percentage in Commissioners Precinct 4---?

Q Yes.

A --- approximately the same as in the whole county?

Q Yes.

A Yes, approximately the same as the percentage in the entire county.

Q How much is the percentage in the entire county?

A It's 29-point something.

Q And that was no more than that?

A No, that was about 30 at that point.

Q You indicated in that respect that even with 30 percent of the population there was a significant white racist campaign, I believe---.

A Yes, that's correct, and I attempted to cite the instances of which I had personal knowledge.

Q Let me ask you -- can you compare the size of the black families, particularly those rural families who recently came in from the country that you testified to, as compared to white families that are in your blue district?

A I have not analyzed the question exactly that way.

Q You have not, O. K.

A But I can generalize based on my own experience, and that is that they are slightly larger.

Q What about the average age of black people as to the white people? Would there be more 18-year-olds and over or less 18-year-olds?

A Are you talking about the county or the proposed district?

Q No, I'm talking about in your district.

A Within the district the ages are approximately the same, and what makes that occur is that that district includes Lamar University, so there's a significant number---.

Q I suppose all the students at Lamar are over 18?

A Yes.

Q Are you familiar with the electoral results in congressional districts, bearing approximately the same population black-to-white ratio as you suggested in Jefferson County and other Old South states that have similar -- I believe that the testimony here is that this is an Old South situation with heavy racial tensions. Do you have any---?

A I read those in your letter. That's my only acquaintance with them.

MR. GEORGE: O. K., that's all I have.

Thank you very much.

JUDGE GOLDBERG: Mr. York, are you the ---?

MRS. LEVATINO: We have no cross-examination.

JUDGE GOLDBERG: No cross-examination?

MR. RICHARDS: You may step down. Thank you.

JUDGE GOLDBERG: Anything further, Mr. Richards?

MR. RICHARDS: Nothing further, Your Honor.

(WITNESS STANDS ASIDE.)

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: I think mine is not quite as pretty, but if that is still not a relevant consideration, I'll be pleased.

I would like to call Mr. Richard English to the stand.

RICHARD ENGLISH,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GEORGE

Q Mr. English, would you state your name, please?

A Richard English.

Q What is your occupation?

A I am a Research Director for the State Republican Party.

Q Do you have any familiarity with Jefferson County?

A I lived in Jefferson County for approximately 18 years continuously and also during the summers during my college education.

Q Did you prepare what is described as the Republican reapportionment plan for Jefferson County.

A Yes, sir, I did.

Q O. K., let me just let you run briefly through the interests that you considered in drafting that plan.

A First of all, I considered the quality of population among the various districts. Second of all, I wanted to make sure that I created a district in which a vigorous advocate of the interests of black people could be elected and where their interests would be represented. Third of all, I considered a community of interests in all of the districts in all of Jefferson County, and, fourth of all, I considered compactness.

Q O. K. You started out with a rather strange-shaped district, as Mr. Oliver testified?

A Yes, it is a very strange-shaped district. However, this district includes approximately 84 percent of the black population of Jefferson County. It is itself 70 percent black. I feel that---.

Q Now, you're talking about this District 7-B here (indicating)?

A Right, the blue district.

Q The multi-member districts were orange, blue and purple on our map. Is that right?

A That's correct.

Q O. K. Let me ask you a couple of questions.

You talked about the changes in District 5,

which is shaded here in green that we made in preparing the map. Mr. Oliver testified he made changes here (indicating) where it ended up with 11 people being changed to this big census tract (indicating).

Can you tell me what the net effect of your changes were?

A The net effect of the population in District 5 going from the present district to the proposed district in this plan would be 836 people. In other words---.

Q Increased---?

A Increased into the multi-member district.

Q Which, I believe, on total was slightly over. It had too few people in it for three districts to start with. Isn't that correct?

A That's correct.

Now, this proposed District 5 will have absolutely no ripple effect, as it is called in East Texas, because the new district will have a population of 75,850, which is well within the bounds.

Q Let me ask you -- I believe the Court has before them, and we won't burden them too much, but very briefly indicate the economic demographic characteristics of the three districts just very briefly.

A District 7-A, the orange district, is primarily composed of the white people in Beaumont, Texas, and

also includes the outlying rural area, which is mainly centered around the rice-growing industry now. This plan reunites Census Tract 3, which very definitely is the center of the community of interests.

Q Which had been previously cut up in District 5 and around---?

A Correct. This census tract had been split up previously. I would like to note that the plan submitted by the State of Texas also reunites the census tract. We have also added a portion of an outlying rural census tract that is rapidly urbanizing, and that would be on the western edge of Beaumont.

Q O. K.

A Now, going to the next, the blue district, 7-B, this district, of course, is the district which most probably would elect various advocates of black interests. I won't discuss that any further. I think it is united under one one community of interests.

Q Just a minute. That's the black community both of Beaumont and Port Arthur where the other plan divides those groups, rights?

A This is correct.

Q And 7-C?

A 7-C is united around a largely white population -- I believe it is 99 percent white, and it is a

labor community, virtually 100 percent blue-collar labor.

Q You have heard references to the letter that I filed before a notice of this hearing in connection with Jefferson County plans with the Court. In that letter you heard references to the various congressional districts in Mississippi, Tennessee, North Carolina, et cetera, which I referred to.

Could you very briefly indicate to the Court if you have examined the census data relating to those districts and the black-white population ratio and give the Court a very brief account of your findings?

MR. YORK: Your Honors, we would object to any evidence about congressional districts in Mississippi and any other state as being irrelevant to this controversy.

MR. GEORGE: Well, if I may respond, Your Honor, we want to indicate the propensity of the Old South model, which is the evidence in this case, to elect black people, given various population ratios which are very relevant to the plan.

JUDGE GOLDBERG: We've been pretty liberal about letting everything in. We'll let this in, too, on the basis that he is an expert on the Old South, as distinguished from the New South.

MR. GEORGE: Thank you very much.

A Let me point out at this time -- I think it would be well to note the population of East Texas was largely settled by people from Alabama. This has been shown in historical geographical studies conducted over a period of years by historians at the University of Texas.

Now, going on to the congressional districts, which I examined throughout the South, I found in Mississippi that there were three congressional districts in electing representatives to the 93rd Congress where the percentage of blacks was more than 40 percent. As a matter of fact, one of the districts had a population of 46.3 percent. However---.

Q Excuse me. That's based on the '70 census figures?

A This is based on the 1970 census.

Q The same information filed with the Court other than Mr. Oliver's testimony?

A This is correct. Now, none of these districts has elected a vigorous advocate for the interests of the black people to the Congress, and also another district that is relevant here would be the 8th District of the State of Tennessee where the City of Memphis -- this district contains about 47-1/2 percent black people and yet, they have not elected a vigorous advocate of black interests in that area either, so my findings from examining these congressional

districts would be that there is no guarantee simply because you have a large black population in this range. There would be no guarantee that a vigorous advocate would be elected from such a district in an Old South constituency.

Q One final question to make very clear to the Court that our plan is based upon the census data contained in the census reports and not upon any independent survey and population estimates that you have made---.

A That is correct.

MR. GEORGE: That's all I have.

JUDGE WOOD: Let me ask you one question.

I believe that the Plaintiffs' expert who testified just before you testified that the Republicans' and the State's plan were both unconstitutional. Do you think your plan is unconstitutional?

MR. RICHARDS: Your Honor, I think he did so with respect to the State's plan. I think he did not with respect to the Republican.

JUDGE WOOD: All right, you think your plan is constitutional?

THE WITNESS: Yes, sir, I do.

JUDGE WOOD: Do you think the State's plan is unconstitutional, as the Plaintiffs' expert has testified?

THE WITNESS: Well, my opinion of the State's plan -- I will not try to discuss -- let me just state this. I believe that the State of Texas plan shows an insensitivity to the representation of blacks.

JUDGE WOOD: But you think it could be constitutional, or do you know?

THE WITNESS: Well, I think---.

JUDGE WOOD: Or have you studied their plan?

THE WITNESS: I have studied their plan. I would not want to indicate an opinion on the constitutionality of it because -- well, I believe it may be unconstitutional.

JUDGE WOOD: What about Mr. Richards' plan, the Plaintiffs' plan? Is it constitutional in your opinion?

THE WITNESS: I believe it is probably constitutional but---.

JUDGE WOOD: Thank you very much.

MR. YORK: Your Honor, while ago, the witness, Mr. Oliver, who is a preacher by profession, gave his opinion about constitutionality. I did not object to it at that time---.

JUDGE GOLDBERG: Mr. York, we're not going

to put a robe on anybody unless he qualifies, or give him a license to practice law in this courtroom, but in the interest of time I just thought I would let it go on in. Believe me, we're going to take a hundred percent discount on a non-lawyer's opinion as to the constitutionality of anything.

MR. YORK: That's why I did not object at the time.

MR. GEORGE: I just wanted to point out that Mr. English has graduated from law school.

JUDGE GOLDBERG: Well, did you qualify him as such?

MR. GEORGE: No, I did not, and don't intend to.

JUDGE GOLDBERG: Even so, I wonder to what extent his expert testimony would be admissible in the context---.

MR. GEORGE: On the constitutional issue, I believe that's a relevant issue.

JUDGE GOLDBERG: In any event, we've tried to be patient. Now, let's go on to something else.

MR. RICHARDS: Just briefly, Your Honor.

CROSS-EXAMINATION

BY MR. RICHARDS:

Q Mr. English, I was having some trouble being certain just what your proposal does with respect to existing District 5 and which census tracts you have altered.

Can you just briefly summarize those for us of what you have done under your proposal?

A Basically, I took the rural, northmost census tract north of Beaumont, and this previously was in the multi-member district, and I also included two census tracts from the City of Beaumont and put them in the present District 5, in what is approximately present District 5, put that into the district which includes Hardin and Jasper Counties. Also---.

Q Am I right that you came down in here to portions of Census Tracts 6 and 9? Is that right?

A That's right.

Q And they were previously in the multi-member district. Is that correct.

A That's correct.

Q And you have now tagged them into Hardin County. Is that correct.

A That's correct.

Q And I guess you have done the same with this area in Census Tract 1. Is that correct?

A That's correct.

Q You have taken that out of the multi-member district and tagged it into the single-member district up in Hardin County?

A That's correct.

Q What are the compensating tracts which you made to, you know, flesh out the---?

A South Jefferson County part of the district, southwestern part, which is geographically the greater part of the district, goes two extremely large, largely uninhabited census tracts were put into the Beaumont District -- into the Orange District (sic).

Q That would be these huge districts -- that would be Tract 113---?

A Right.

Q ---and 116, and I guess 115 were all moved from the single-member district up in District 5 into your plan, which would now be the three-member district created by this Court. Is that correct?

A That's correct.

MR. RICHARDS: Thank you very much. No further questions.

JUDGE GOLDBERG: Mr. York?

MRS. LEVATINO: No questions, Your Honor.

JUDGE GOLDBERG: Any questions?

MR. YORK: We have none, Your Honor.

JUDGE GOLDBERG: All right, Jefferson is a little smaller county than Tarrant.

JUDGE JUSTICE: Does the State have some testimony?

MRS. LEVATINO: Yes.

JUDGE GOLDBERG: Oh, I'm sorry.

JUDGE JUSTICE: Please stand down.

(WITNESS STANDS ASIDE.)

MRS. LEVATINO: The State would like to call Mr. Pike Powers.

PIKE POWERS,

a witness called by the Defendants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MRS. LEVATINO:

Q Would you state your name for the Court, please?

A Pike Powers.

Q What is your profession, Mr. Powers?

A I am a practicing attorney in Beaumont, Texas, and a member of the State Legislature.

Q How long have you been licensed to practice law?

A Since 1965.

Q And how long have you served in the State Legislature?

A I was elected to succeed the Honorable Will Smith after he died in a special election in the summer of 1972.

Q And you have served continuously ever since?

A Yes.

Q Are you familiar with this plan which has been submitted on the Court's docket as Docket Entry Submission 171?

A Yes, I am.

Q Is this the Nelson-Brocado-Webber (phonetic) plan?

A Yes, I think it was inadvertently referred to earlier as the County Commissioners' plan. As I understand it, they are just three private citizens and have no relationship whatsoever to the county.

MR. RICHARDS: I apologize. I thought they were County Commissioners.

JUDGE GOLDBERG: Let me see. Has that exhibit been introduced in evidence?

MRS. LEVATINO: It was one of the sealed plans, Your Honor.

JUDGE GOLDBERG: One of the sealed plans?

MRS. LEVATINO: Right.

JUDGE GOLDBERG: And now you're taking it and interrogating the witness on it, and you have identified it in some way?

MRS. LEVATINO: As a docket submission. We will identify it as a Defendants' exhibit.

JUDGE GOLDBERG: All right.

Q Is this the plan that has been agreed upon by the members of the Jefferson County delegation to the Texas Legislature?

MR. RICHARDS: We would object to that. If she's going to get into that, let's get all the members of the delegation down here and find out what they have agreed to.

Q To your knowledge is there any objection from the members of the Jefferson County delegation to this plan?

A Mrs. Levatino, I am here on behalf of the Jefferson County delegation. I am authorized to speak for them. We construe that within the legislative terms to mean Districts 5 and 8, which at the present time also intrude into Jefferson County, so I speak for Mr. Doyle, Mr. Adams, Mr. Peveto and myself, as well as Carl Parker from Port Arthur. Parker has stated publicly that he does not endorse this plan, the so-called Nelson-Brocado-Webber plan, but he does not oppose it and does not in any way oppose the Court's consideration or implementation of the plan.

Q And this is the plan which the Defendants White and Briscoe have adopted as their plan?

A That's my understanding.

Q All right. I'd like to show you two

legislative documents right now. Would you identify them, please?

A Yes, ma'am.

What has been marked as Defendants' Exhibit 46 is House Bill 1319 by Representative Henderson from Houston, a Republican, which was introduced in the Legislature during the last session of the Legislature, the 63rd Session, and it was my understanding after several consultations with Mr. Henderson's office that this was the State Republican plan for redistricting in the event that it did emerge on the floor for debate, and it was so offered.

(HOUSE BILL #1319 -- was duly marked as:
DEFENDANTS' EXHIBIT NO. 46)

Q And the other one?

A The second one is Defendants' Exhibit No. 45, which was an amendment of the so-called Fort Worth-Tarrant County single-member district plan which, as Mr. Finney has already described for the Court, almost came to the floor several times, but was stalled on procedural maneuvering. This was an amendment by Representative Pitney from Houston, and it bears his initials, J.C.P. He gave this to me during one of the debates on whether or not the Fort-Worth Tarrant

County plan would come to the floor. This also purports to single-member district all the counties in the state.

(AMENDMENT, FORT WORTH SINGLE-MEMBER DISTRICT PLAN -- was duly marked as:
DEFENDANTS' EXHIBIT NO. 45)

MRS. LEVATINO: These have been marked as Defendants' Exhibits 46 and 45, respectively.

MR. RICHARDS: Are you going to offer them?

MRS. LEVATINO: Yes.

MR. RICHARDS: I would like to have some clarification, if I may. Is the State adopting these as alternative proposals for redistricting?

MRS. LEVATINO: No, we are not adopting them.

MR. RICHARDS: We have no objection except that they are immaterial.

BY MRS. LEVATINO:

Q Have you examined the contents of these with regard to Districts 7, 5 and 8?

A Yes, I have. Both plans, both the so-called Republican plan introduced by Mr. Henderson and the amendment to the Tarrant County bill by Dr. Pitney, both are basically

the same as what has been proposed by Jefferson County delegation here today. In other words, they take Jefferson County the way it is now, District 7, and block it off into quadrants, north, middle and south, and that's essentially what has been done by the Jefferson County delegation.

For the edification of the Court -- and I think that it is pertinent at this time -- since you have asked about what did occur in the Legislature, we were prepared to single-member district our county as an amendment to the Tarrant County bill, assuming the thing did get on the floor for a vote. However, we were precluded from ever getting a chance to portray our intent by the same problem that prohibited Tarrant County from having a chance to single-member district their county, and our delegation was prepared to enact a plan basically similar to the one, as the one that has been introduced here this morning as the Nelson-Brocado-Webber plan and adopted by the State.

Q Turning to the plan itself, the comment has been made previously that this plan does alter both Districts 8 and 5, in addition to District 7.

Can you generally describe what census tracts are changed and also the effect that this would have on Districts 5 and 8?

A Let me first address myself to District 8, and I think what we have here is a simple housekeeping or

housecleaning type of procedure that is agreed upon by virtually anybody that has any knowledge about it. This anomaly, as I call it, is preserved in the Plaintiffs' plan described by Mr. Oliver and Mr. Richards. There are some 3,000 people roughly in Voting Precinct 74 or Mid-Counties. It's commonly referred to there in yellow as Central Gardens. Right now this area is in Legislative District No. 8, and that was done at the time of Kirkwood versus Preeslar and other cases. Mathematical certainty was felt to be an overriding concern.

MR. RICHARDS: First, I want to object -- I don't believe the witness served on the Legislative Redistricting Board in drawing these plans, and we've got a lot of testimony about what that Board did in creating those districts, and I don't believe, unless you were a member of the Board, you would be qualified to testify to that.

THE WITNESS: I think I am qualified, Mr. Richards, to explain why this is in there, and if you don't want to hear it---.

MR. RICHARDS: Well, that is my objection, and I guess I will insist upon my objection.

JUDGE GOLDBERG: Well, we're going to listen to this witness to the extent that it is feasible to do so, Mrs. Levatino, but let's let

him get down to the real important reason for this and that and the other, and we don't have to go back into antiquity to come to the point that we've got to decide this case on. He obviously is of the opinion that he should use these other legislative districts. Let him tell us why and let's get down to it.

THE WITNESS: Thank you, Your Honor. I didn't mean to be expansive. I just feel in my opinion based upon my discussions with a number of citizens of Central Gardens and also in talking to Representative Peveto of Orange County, which is District 8, that there is no bridge or way across that river at that point that they would rather be represented by a Jefferson County man rather than an Orange County man. That's the sum and substance of it.

What this plan does or the third plan up here or the State's plan, it just simply gives that back to Jefferson County and still leaves Orange County with a population in a single-member district of around 71,000. There's about a four percent deviation, so it's a housekeeping move.

The second thing that I have reference to

is the line that Mr. English has already referred to in his testimony, and that is in Census Tract 3 in Beaumont. It straightens that line out to follow the city limits line of Beaumont. There are a number of people who feel very strongly about not being represented by the representative who represents Beaumont, and they have made that clear to all of us in the delegation, and what that constitutes is moving the north line in Census Tracts 1 and 2, which has a more rural identification with Hardin and the other counties, and it just means that the tracts are changed around. The net effect is none in terms of population deviation, but it simply reflects the interest of these two areas, Precinct 74 and Census Tract 3, wanting to be presented by different folks.

BY MRS. LEVATINO:

Q Mr. Powers, would you say that District 7, as proposed on that map, reflects or contains three communities of interest, that would be Port Arthur, the City of Beaumont and the Mid-County area?

A Yes, it does. And I suppose I am here today, Your Honors, to talk most about that. I feel very keenly, and my friends, Mr. Nisbey, Mr. Scott and Mr. Oliver on the

back row back there feel very keenly about the problems in our community, and if they were able to come to the stand, they would tell you that I have tried to be sensitive to those problems, but I think we're at a time when the proposal of uniting a large community of people in a gerry-mandered situation together is divisive of some of the things we have overcome in recent times, and I would submit to the Court -- and you have to be a magician almost to follow 7-A, 7-B and 7-C, because they are different on different proposals, but the one on the third map, the State's plan, does protect and preserve into compact, concise districts that do not basically violate the territorial and geographical integrity of Beaumont, Port Arthur and Mid-County as much as the other plans do.

At the same time they are not divisive. They do not pit blacks against whites, labor against management. They attempt to heal those wounds that have been there so long and that have been healed rather substantially in the last three or four years. I will admit that there have been problems. I would be the first one to admit that, but I submit to the Court that these plans bring all these things together, and this final point on Port Arthur - the west side of Port Arthur, which is in 7 -- it's in the Plaintiffs' plan, it's the lower part, Mrs. Levatino, I think, in pink. Right, that's the right side of

Port Arthur, and this is almost 100 percent black. Now, in the State's plan it is tied with Port Arthur. I don't think there is any secret -- I'm not fooling anybody that Port Arthur is becoming more and more black all the time and probably eventually will become a black city. It's listed in the '70 census as 40-something percent black and it probably will ultimately become more than that. I will simply submit to the Court that the real opportunity, the real community of interests for blacks of Jefferson County lies in the south part of the county. I'm not taking anything away from north county problems. They are there. I'm not disagreeing with some things Mr. Oliver said at all.

Q Mr. Powers, in the south county district, which is labeled District 7-C, what is the percentage of minority population?

A In District 7-C on the State's plan?

Q Yes.

A I would estimate that that is roughly 22 - 23 percent.

Q And District 7-B?

A That's roughly 30 or 31 percent.

Q And District 7-A?

A Twenty-one or twenty-two percent.

Q What is the black population or the minority population in all of those districts, what is presently

District 7?

A I don't really know exactly. County-wide it's 24.09 by the '70 census. Beaumont is roughly a third or less, and Port Arthur is 40-something percent.

Q These three districts that are represented in the State's plan, actually, each district does reflect about the percentage of minorities within District 7 as a whole?

A I think they do so, Mrs. Levatino. At the same time they compact and protect and preserve the territorial or geographic integrity.

Q The three districts that are created by this plan, what is their deviation from the state average?

A I believe the total of three is 2.06, which is less than the Plaintiffs' plan of 3.06, so there's less population deviation, and I might add the changes to District 5 out here do not alter it -- I think less than one percent or right at one percent, and District 8 around four percent, so there's no problem, as I see it, as a lawyer on the deviation problem or in White versus Regester.

Q One further question on the implementation of this plan. Are you familiar with or aware of what the State's plan will do with regard to voting precincts in Jefferson County? In other words, how many voting precincts will have to be changed if this plan is adopted?

A From my examination of the voting precinct map, the State's plan will only change one existing voting precinct, and that will be Voting Precinct 58, which is on the west side of Port Arthur.

Q Have you examined any of the other maps with regard to voting precincts?

A I have examined the Plaintiffs' map.

Q By the Plaintiffs, are you referring to Plaintiff Nisbey's map?

A That is correct.

Q O. K.

A And I discussed the matter with County Engineer Howell, and he tells me that that plan will alter Voting Precincts Nos. 4, 6, 17, 18, 22, 67, 75, 46 and 70.

Q Is there any other comment you wish to make on either of the other plans?

A I'm frustrated as to a closing comment. I will be glad to answer any comments of the Court. The Legislature and the Jefferson County delegation was ready to single-member district itself and attempted to do so but wasn't able to because of parliamentary maneuvering. We failed to secure two-thirds vote. I'm here to tell this Court that I voted to suspend the rule to take up the Tarrant County plan and to take up our plan so that we could get it out on the floor and vote on it, and it's because of

no fault of our delegation, as far as I humanly can know, that this plan did not get voted on by the Legislature and is here today in the United State's District Courts.

Q Mr. Powers, in that regard to your knowledge did anyone in the Tarrant County delegation or your delegation vote against bringing up any of these plans?

A Not that I know of, Mrs. Levatino. I would only comment that every time I turned around there was somebody from Tarrant County trying to persuade me to get out there and raise the votes to get that two-thirds changed. They were actively lobbying for it, and never did make it.

MRS. LEVATINO: We would like to offer Defendants' Exhibits 45, 46 and label this plan as Defendants' Exhibit 47 in evidence at this time, and we have no further evidence.

(PLAN FOR JEFFERSON COUNTY -- was duly marked as:
DEFENDANTS' EXHIBIT NO. 47)

JUDGE GOLDBERG: Thank you, ma'am.

JUDGE JUSTICE: For the record, they are received in evidence.

MR. GEORGE: One question. I'm Jim George representing the Republican Party.

CROSS-EXAMINATION

BY MR. GEORGE:

Q One question, quite briefly.

You referred to the Republican plan which was introduced as an exhibit, the number of which escapes me at the moment.

A I believe it was 46. It is Representative Henderson's bill.

Q That's not any plan submitted to the Court?

A No, sir.

MR. GEORGE: That's all I have.

Thank you.

CROSS-EXAMINATION

BY MR. RICHARDS:

Q Mr. Powers, I was provided your summary of the composition of the four districts now in Jefferson County under the State's plan. As I see it, it divides the black population into four districts, that there are 14,000 blacks in District 5 comprising 19 percent of that district; 15,000 blacks in District 7-A comprising 20 percent of that

district; 23,000 blacks in 7-B comprising 30 percent; and 17,000 in District 7-C comprising 22 percent. Is that correct?

A Those are roughly accurate, Dave. They vary somewhat.

Q That's what is filed in support of the plan which you are testifying here about.

A That is correct.

Q And you would agree with me the plan then divides the blacks in four different legislative districts in Jefferson County?

A I'm sorry?

Q It divides the black population into four separate legislative districts in Jefferson County?

A Well, just as it divides all other types of population in Jefferson County.

Q You're having a hard time recognizing that there may be some special needs of the black community that might entitle it to special consideration by this Court, aren't you?

A No, sir, I'm not. I'm not here to ask this Court not to do what it feels is right in Jefferson County with regards to blacks. I came here principally to express legislative intent. I feel that the Jefferson County delegation did not have a chance to be heard. You didn't have a

chance to know how we felt.

Q But we do now?

A Yes, sir, you do.

MR. RICHARDS: Thank you.

JUDGE GOLDBERG: Anyone else have anything from this witness?

THE WITNESS: Thank you, Your Honor.

(WITNESS STANDS ASIDE.)

JUDGE GOLDBERG: I just want to see where we stand a little bit. Now, the next county we're going to have is McLennan. Do you have any live witnesses?

MR. RICHARDS: I thought we had a complete wrap-up on McLennan County, Your Honor---.

JUDGE GOLDBERG: It seems to unwrap. I want to know right now where we are. You think you have a live witness?

MR. RICHARDS: Oh, no, we would not anticipate calling anyone.

JUDGE GOLDBERG: Mr. Korbel?

MR. KORBEL: No, sir.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: No.

JUDGE GOLDBERG: Does the State?

MR. YORK: Your Honor, I may be misunderstood in the situation. If the Plaintiffs' plan is the same -- Mr. Richards' plan is the same one we have adopted, that the Defendants have adopted, but I'm not certain that the rest of the Intervenors, et cetera, are in on that deal.

MR. KORBEL: We informed the Court we joined Mr. Richards on the plan he offered.

MR. YORK: The only other reservation -- we have not had an opportunity to talk in detail with Judge Haley or Representative Moore about what position they occupy with regard to what we have offered. We could probably resolve that at lunch and may well have no witnesses. There might be one witness, but it will be very brief.

JUDGE GOLDBERG: What about the others?

MR. RICHARDS: Mr. Olson, Representative Olson from Waco---.

MR. OLSON: I'm merely here in case you called me.

MR. YORK: Representative Olson would be our witness, Your Honor.

JUDGE GOLDBERG: We're going to adjourn. Let me take a minute or two. Now, in Travis County, how is the witness situation?

MR. RICHARDS: We anticipate no witnesses.

MR. CRAWFORD: Your Honor, we would anticipate no witnesses.

MR. GEORGE: No witnesses.

JUDGE GOLDBERG: Mr. York, do you have.

MR. YORK: The Defendants in Travis County have not adopted a plan, so that means that we, likewise, would not anticipate having any live witnesses.

JUDGE GOLDBERG: Would not have any?

MR. YORK: No.

JUDGE GOLDBERG: Lubbock.

MR. KORBEL: Your Honor, we were informed late Saturday that the State has adopted a plan. We don't have any witnesses, but I would like to speak just a few moments.

JUDGE GOLDBERG: Oh, well, we'll permit that.

Do you have a live witness?

MR. YORK: Yes, sir. This is one of the sealed plans, and we would like to have one of the representatives.

JUDGE GOLDBERG: One witness?

MR. YORK: Yes, sir.

JUDGE GOLDBERG: El Paso? Any witnesses?

MR. KORBEL: It's my understanding the State has not adopted a plan for El Paso.

MR. YORK: That's correct.

MR. KORBEL: I believe we may have one witness, Your Honor. I'm going to talk---.

MR. RICHARDS: We're together. MALDEF and our Plaintiffs are together.

JUDGE GOLDBERG: Mr. George, I'm not trying to exclude you from any of this.

MR. GEORGE: In El Paso County we had some little difficulty. I submitted a plan for Mr. Korbel's client and my client, an agreed plan for the Court, bearing a designation Republican Plaintiffs and Moreno Plaintiffs for El Paso County. I understand now that Mr. Korbel's client has changed his mind and is adopting the sealed plan.

MR. KORBEL: We are, Your Honor.

MR. GEORGE: I suppose that we will continue to urge the plan that had been previously presented as the Moreno-Republican plan.

JUDGE GOLDBERG: Talk it over during the noon hour and agree.

Nueces?

MR. KORBEL: Your Honor, I was informed after the hearing started that the State has now

adopted a plan for Nueces County, and I think it is outrageous---.

JUDGE GOLDBERG: We know you're outraged.

MR. KORBEL: I'm having trouble getting people from Nueces County down here to testify.

JUDGE GOLDBERG: Mr. York, do you have---? Is it true that you're going to present a plan?

(LAUGHTER)

MR. YORK: I hope the Court is not outraged, Your Honor, but it is true that the Governor and the Secretary of State have adopted a plan for Nueces County. I should point out that the plan is the plan which has been previously submitted to the Court and has been available to all counsel for over a week. It is a plan which the delegation in Corpus Christi -- it's not unanimous. Representative Truan does not adopt the plan. He would adopt the plan of the Plaintiffs, but the Defendants have adopted the majority of the delegation's plan for Nueces County and will submit evidence on that plan.

JUDGE GOLDBERG: Mr. Korbel, now do you need some testimony?

MR. KORBEL: Well, Representative Truan is in the courtroom, and I would propose that the State

put on their witness first and we use Representative Truan in rebuttal, if necessary.

JUDGE GOLDBERG: Would that be all right with you, Mr. York?

MR. YORK: We don't mind which way we do it.

JUDGE GOLDBERG: That's very nice.

(LAUGHTER)

MR. RICHARDS: We adopt Mr. Korbel's witness.

JUDGE GOLDBERG: All right. Now, let's try to get back here promptly at 1:15. Will that be all right? Will that be too much pressure on you?

(REPORTER'S NOTE: Mr. York and Mr. Richards here confer out of the hearing of the court reporter.)

MP. YORK: Pardon us, Your Honor.

MR. RICHARDS: I was just wondering if we could waive argument on Jefferson County. We'll talk about that over the noon hour.

JUDGE GOLDBERG: We'll hold your hands in the waiving process.

(LAUGHTER)

JUDGE GOLDBERG: We'll stand in recess until 1:15.

(REPORTER'S NOTE: The Court then, at 12:20 o'clock, P.M., January 28, 1974, recessed until 1:15 o'clock, P.M., the same day, at which time it reconvened.)

JUDGE JUSTICE: Please be seated.

JUDGE GOLDBERG: The Court appreciates your promptness.

Now, where are we? I think we had reached the point of McLennan County.

MR. RICHARDS: Well, we have not disposed, I suppose, of the question with respect to argument of Jefferson County. We're prepared to let the matter -- if the Court is satisfied, let it rest on the record as it stands without arguing it.

JUDGE GOLDBERG: Do you have an irresistible urge, Mr. George?

MR. GEORGE: I would also suggest we waive argument.

JUDGE GOLDBERG: You waive argument? Does anyone else want to argue?

MR. KORBEL: I have no desire to argue on it.

JUDGE GOLDBERG: Mr. York or Mrs. Levatino, either one of you want to say something? Always open to enlightenment.

MR. YORK: Well, Your Honor, in view of the very tight schedule that the Court is on, and this will be six more arguments to make, if all the other lawyers are willing to waive that and let it rest strictly on the evidence, I think we would be, too.

JUDGE GOLDBERG: Well, if we get along in the afternoon and get a breathing spell, we would be glad for you to shed light on some of the things you think you could help us on, Mr. York.

Now, we'll move on to McLennan County. Where are we?

DISCUSSION CONCERNING McLENNAN COUNTY

MR. RICHARDS: Well, at the last report, I suppose all Plaintiffs have come together, and the State has joined in our proposal on McLennan County. All the parties before the Court, as I understand it, have unified behind the single plan, which is that that I filed.

JUDGE GOLDBERG: All right.

JUDGE JUSTICE: We have State Representative Moore here.

MR. RICHARDS: It is indicated that Mr. Moore wanted to voice some concerns of the County Commissioners up there, and the Court has indicated they would hear from him, so we certainly don't object.

JUDGE GOLDBERG: Representative Moore, what is it -- are you going to talk in behalf of a plan, or what are you going to do?

MR. MOORE: Yes, sir, a modification of the plan that's been agreed upon.

JUDGE JUSTICE: Do you want to present any evidence, Mr. Moore?

MR. MOORE: Just my own testimony from here.

JUDGE JUSTICE: Well, would you like to come over here?

MR. MOORE: No, we don't need testimony, I think. I believe we can show you the map and give you our views in less than the ten minutes you have allotted.

JUDGE GOLDBERG: Go ahead.

MR. MOORE: The voters in their great wisdom saw fit to let me quit sacrificing for the public and return to private practice last election. I'm no longer Representative Moore.

(REPORTER'S NOTE: Mr. Moore approaches map on easel.)

MR. MOORE: We're not going into any great details. That particular map shows the voting precincts in McLennan County. As you have been told, all hands, except our clients, are in agrement on a plan which is before you for dividing McLennan County into two representative districts. Now, Mr. Haley and I represent the Commissioners Court of McLennan County and the City Commission. We have no objection to the splitting of the county in philosophy or law, but we would like to talk to

you during our ten minutes about the mechanics of how you will split our county in two. Our only objection to the plan as agreed upon by all the other parties lies in the fact that it does split ten existing voting precincts. Now, when it does that, it raises quite a number of problems for the Commissioners Court in realigning those voting precincts. It means that we must also reconstitute our justice precincts and our commissioners precincts. It raises further problems in that in our county the voting precincts for the cities, Waco and Robinson and---.

JUDGE GOLDBERG: Well, you don't have city elections at the same time you have these elections.

MR. MOORE: No, sir, but the same voting precincts and the same judges and the same people know which box to vote in.

JUDGE GOLDBERG: In a county like Dallas where we redistricted, they first came out and they said they were going to have catastrophic problems---.

MR. MOORE: We don't say they are catastrophic or even insurmountable, Judge, but we have presented a plan to you which you can see by the

colored area by just a slight variation from following the census tracts to going by our voting precinct lines you can save us all this trouble. It will not do violence to the proportions of minorities. It will not put us out of line by dividing the county 50-50. We're still within two percent. There's only the slightest variation, and I don't see how anybody could seriously argue against simply following these voting precinct lines with that minute variation in order to avoid having surveys made of ten voting boxes, of having all those field notes put in the Minutes, of the myriads of difficulties that come up, plus the fact that the census lines do cut across the city limits lines in addition. We would have to have separate voting boxes for city elections from what we have in the general elections. None of this is necessary. It will not impose any hardship on any minority group whatsoever. In fact, we're putting more blacks in one box there by one percent than does this plan.

JUDGE GOLDBERG: Who establishes the voting precincts? The County Commissioners?

MR. MOORE: Yes, sir.

THE COURT: Well, we would have to have the

metes and bounds on every voting precinct in McLennan County now, because we couldn't let this plan be changed by an amendment by the County Commissioners Court of the voting precincts in McLennan County.

MR. MOORE: How are you all going to do it?

JUDGE GOLDBERG: If we do it, we're going to do it according to the census tracts. That's the only---.

MR. MOORE: Well, I mean how are you going to get your field notes?

JUDGE GOLDBERG: Because we go by census tracts and blocks within the census tracts.

MR. MOORE: Well, Judge, you can't locate them on the ground. I sure can't.

JUDGE GOLDBERG: Well, I'm sorry.

MR. MOORE: What I am saying is---.

JUDGE GOLDBERG: In Dallas County they were able to do it, and I have never heard this before. I mean I can see some inconvenience. I don't want to be misunderstood on that.

MR. MOORE: All I'm saying is, it won't be any inconvenience to you to follow our lines, rather than the lines that are previously agreed upon, and I don't think you will find any serious quarrel

from any other party about this.

JUDGE GOLDBERG: Suppose that the McLennan County Commissioners decide because of a shifting of population that they want between now and the general election to change a voting precinct? What are we going to do then? Somebody going to come running up here and want to amend something? Now, we would have to freeze you in. We would have to freeze you into these voting precincts, which I think as a matter of practicality -- I would have serious doubt about that. Go ahead with the argument.

MR. MOORE: That's my argument.

JUDGE GOLDBERG: Thank you very much. I understand it, and I know that anything we do is going to cause inconvenience. Nobody can escape that. That's one of the problems inherent in these redistricting cases. We have this case. We would like all to walk away from it. We can't.

MR. MOORE: I appreciate that, but all I am saying is, you don't have to inconvenience anybody here. The lines are there for you, the field notes, the whole business.

JUDGE GOLDBERG: All right, go ahead. I'm sorry.

JUDGE WOOD: He wants you to receive it in evidence.

JUDGE GOLDBERG: Oh, we'll receive it in evidence.

JUDGE WOOD: You do have copies of it.

JUDGE JUSTICE: How is it marked, Mr. Moore?

MR. MOORE: Presently it's marked McLennan County Commissioners' Exhibit No. 1.

JUDGE JUSTICE: Very well. It is received in evidence.

(McLENNAN COUNTY COMMISSIONERS' PLAN -- was duly marked as: PLAINTIFFS' EXHIBIT NO. 1)

(MAP OF McLENNAN COUNTY COMMISSIONERS' PLAN -- was duly marked as: PLAINTIFFS' EXHIBIT NO. 1-A)

JUDGE JUSTICE: By the way, what is the attitude of the Plaintiffs in relation to Mr. Moore's plan?

MR. RICHARDS: Well, our attitude is that we remain with our plan, because we think it is the only way we would legally describe what is

taking place, that is, by relying upon census tracts, because they can be ascertained and have a permanent---.

JUDGE GOLDBERG: The United States Government has said that that is what it is. Do you have anything, Mr. Korbel?

MR. KORBEL: That's all. We can rely on the census tracts.

JUDGE GOLDBERG: Mr. Bonner?

MR. BONNER: No, Your Honor.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: We have no real position on it one way or the other. I think the field notes, the description of the legislative districts are acceptable in any kind of redistricting if you want to make it acceptable. If you have survey of the district, you would have an acceptable description of it and the statistics by the County Commissioners Court.

JUDGE GOLDBERG: Mr. York?

MR. YORK: The delegation, the two representatives, had agreed on the earlier plan. They have told me privately, Mr. Olson and Sears (phonetic) told me that they did not take into account in the development of this plan the

technical kind of problems presented by Mr. Moore. They are not against the change -- Mr. Olson is not against the change suggested by Mr. Moore. They would leave it up to the Court.

JUDGE GOLDBERG: Thank you.

MR. RICHARDS: That concludes McLennan County.

JUDGE GOLDBERG: Now, we go to Travis. What is the situation on Travis? Any live witnesses:

DISCUSSION CONCERNING TRAVIS COUNTY

MR. CRAWFORD: Your Honor, we have no live witnesses, and I believe I can summarize in about two or three minutes, and we can put the map up if you would like.

JUDGE JUSTICE: Yes, let's look at the map.

(REPORTER'S NOTE: Map is placed on the easel.)

MR. CRAWFORD: In line with the Court's suggestion in bringing Travis County to a speedy conclusion, this is exactly what we would like to do. The map which is depicted now is worked out by

all the parties Plaintiff, as well as the Intervenors. The lines are drawn, as you can see, along easily recognizable boundaries. We think the districts are compact. They are contiguous. They give bearing and take into consideration the homogeneity of the ethnic, the cultural, the socio-economic patterns, as well as the community integrity and the community interests.

We further think they meet the test of maximizing the minority voting strengths so that the representation will come from geographic boundaries that the ones who will be elected will be responsive to the needs and will be responsible for the action which they take.

Now, in each of these---.

JUDGE GOLDBERG: Let me ask you a question. Is the same plan---?

MR. CRAWFORD: That has been submitted.

JUDGE GOLDBERG: ---that has been submitted. It's just a map of the city and the outlying areas, but it doesn't look like the map that we have.

MR. RICHARDS: The other maps are on census tracts.

JUDGE GOLDBERG: I see, but it's the same thing?

MR. RICHARDS: The same thing virtually.

MR. CRAWFORD: So, Your Honor, within the data which we used to compile this, there is no guarantee, and it is our position that there shouldn't be a guarantee that a minority member will be elected. In the main, the two districts, A and B, these are the two districts with heavy concentrations of minority groups, in A the Mexican-American population and in B the blacks.

JUDGE GOLDBERG: What are those figures approximately? It's in the record, but I just---.

MR. CRAWFORD: It's in the record. The black is 32.98. This is about 33 percent Mexican-American (indicating).

JUDGE GOLDBERG: Thank you.

MR. CRAWFORD: There may be some questions on some of the configurations which you might see, and this is the St. Johns community, which there's testimony in the record which indicates why we attempted to maintain the community integrity and the interest there (indicating). This is a natural boundary of which there was also testimony which runs between the black and the brown community (indicating). It also takes into consideration some ethnic factors.

Now, that is basically what our plan is, and our only submission is that this plan be implemented forthwith.

JUDGE JUSTICE: For the record, what is your name, sir?

MR. CRAWFORD: J. Phillip Crawford.

JUDGE GOLDBERG: Crawford, thank you, sir.

MR. GEORGE: I believe that's all in Travis County, except that we have submitted a plan. We have no real objection to the other Plaintiffs' plan. Our only concern is the division of the minority community between two districts in this Plaintiffs' plan, which we consider runs some risk of not granting the relief sought by the Plaintiffs. The district that we prepared provides a 61 percent minority district and insures a bigger representation---.

JUDGE GOLDBERG: You want to give them a gold back guarantee (sic)?

MR. GEORGE: Well, we say that 61 percent, given the voting record, would not give anyone a voting guarantee, but it certainly does not run the risk of being constitutionally invalid.

JUDGE JUSTICE: Mr. Crawford, do you have something?

MR. CRAWFORD: I would like to respond by saying that we are overwhelmed by the generosity of Mr. George as far as wanting our assurance, but it is our express and explicit position that we not be guaranteed -- we want a sporting opportunity and a chance to win.

JUDGE GOLDBERG: Thank you. Who else? Anyone? Mr. York and Mrs. Levatino?

MR. YORK: Your Honor, the Defendants have not adopted a plan in Travis County. Therefore, we have no evidence to present. We would like to offer -- and I'm sorry the copy I have doesn't have complete information -- not as a plan adopted or offered by the Defendants, but simply for the Court's perusal, a copy of the Commissioners Precincts or Districts in Travis County, which are four in number and which do divide the county up, simply for the Court's review and general information with regard to the other plans. We'll have to get a copy. I think all counsel are familiar with it. We'll have to get the copy marked, and I didn't realize this copy didn't have all the markings on it.

JUDGE GOLDBERG: At the end of the session you can put it into evidence.

Now, let's see. Lubbock, any evidence on Lubbock?

TESTIMONY CONCERNING LUBBOCK COUNTY

MR. KORBEL: We have no witnesses. I understand the State has some witnesses.

MR. YORK: That's correct, Your Honor. We do have Representative McAlister who, I believe, is here.

JUDGE GOLDBERG: Is he here?

MR. YORK: Yes.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: No witnesses.

MR. RICHARDS: The Plaintiffs, the Wright Intervenors et al, join with the MALDEF plan in Lubbock County.

JUDGE GOLDBERG: Thank you.

R. B. McALISTER,

a witness called by the Defendants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. YORK:

Q Will you give us your full name, please, sir?

A R. B. McAlister.

Q What is your business or profession, Mr. McAlister?

A Broadcasting.

Q Are you also a member of the Texas Legislature?

A Yes.

Q What district do you serve?

A I come from the Lubbock District 76, Place 2.

Q How long have you been a member of the Legislature, please, sir?

A Since 1968.

Q Have you participated in the development of a reapportionment plan for District 75?

A Yes.

Q Is what is now on the board here an accurate copy of the plan which you and others have developed for redistricting District 75?

A Yes.

Q Has that plan been previously submitted to the Court in a sealed form prior to today?

A I believe so, yes.

MR. YORK: This will be 48, Mr. Clerk?

CLERK OF THE COURT: Forty-eight.

MR. YORK: I'll mark this large copy Defendants' Exhibit 48.

(PLAN FOR LUBBOCK COUNTY, MAP -- was duly marked as: DEFENDANTS' EXHIBIT NO. 48)

Q Has this plan which is now before the Court as Exhibit 48, Defendants' Exhibit 48, first of all has it been agreed to by the two members of the delegation from Lubbock County?

A Mr. Tarbox and I have conferred on this and

both agreed that it was an intelligent plan and one that would speak to some of the issues involved.

Q So it is an agreed plan from the Lubbock County delegation?

A Yes, sir.

Q Has it also been adopted by the Governor of this state, Governor Briscoe, and Secretary of State, Mark White, as the plan of the Defendants in the case for Lubbock County?

A Yes.

Q What considerations did you have in drawing the plan?

A Well, as you know, Lubbock is a shifting city and has been since especially 1970 due to the tornado which caused quite a few changes in some of the personality compositions of the various segments of the city.

Q Shifted your biggest building, too, didn't it?

A Well, it hasn't shifted yet. It's in the process, but the thing, I felt, that made this plan plausible and one that would be at the same time important is that it gives a fine balance to the minorities in both districts with certainly a very impressive significant minority in what we call, I believe, District A here, or 75-A.

Q Do these two districts, as far as their

equality and number, how do they compare with the so-called ideal representative district in the state?

A As far as the 75,000?

Q Yes, sir.

A Well, I don't have that figure right here, but is very, very close, I think maybe within 130 or 140 people difference, something like that.

Q Does this plan affect any other districts besides what is now District 75?

A Yes, it would address itself to Representative Laney's district, since this encompasses the city limits of Lubbock and would give Lubbock for the first time representation of the city (sic).

Q Now, what effect does it have on the adjoining district in terms of numbers?

A I just can't answer that statistically.

Q Oh, I'm sorry. I thought you had that information in the breakdown.

A You mean Representative Laney's district?

Q Yes, percentage-wise how much does it change it?

A I believe there are about 6,000 people in what will be the lower right-hand corner -- I'm trying to see -- what is the lower lines, the parallel lines on the bottom, what street is that, the third one?

Q Eighty-second Street.

A Well, you go about three-quarters of the way, starting from left to right, and then Representative Laney's district at the present time comes back to Fiftieth Street from Eighty-Second, which would go north on the map up to Fiftieth Street, and then it goes back out east to the city limits, so there are about 6,000 people, but at the same time this district also eliminates from Representative Tarbox and me back over here two of the rural areas that are now in the---.

(REPORTER'S NOTE: Counsel indicates on the map.)

A No, back over here.

Q On the right?

A Yes, back over here. It's Friendship, and also a little bit of the New Deal community which comes back in the northwest area. Those two would be incorporated in the upper rural district, which would give Representative Laney a strong rural representation in Lubbock County, to go with, of course, Hale County and Swisher, which he now has.

Q Well, what does it balance out, in other words, what you take into 75 from 76 and what you give back to 76, does it balance out in terms of numbers of people?

A Yes, I think it pretty well washes out, far within the acceptable percentage lines.

Q Now, as far as this District 75-A is concerned, the total number of blacks, is that 6.41 percent in 75-A?

A Yes, that's what I have.

Q And then Mexican Americans in 75-A, 21 percent of the district?

A Right.

Q Down in 75-B, the blacks, 6.16 percent of the district?

A Right, which is almost comparable with the 75-A.

Q Right, and then the Mexican-American about 8 percent of the District 75-B?

A Yes.

Q All right.

A I might add that the 8 percent in my opinion is growing, because of various and sundry influences of bringing the Mexican-American families into Southwest and West Lubbock.

Q So that the total up here, as far as 75-A is concerned, is about 27 percent browns and black.

A Yes.

Q And down in 75-B about roughly 14 and some-odd

percent in browns and blacks?

A Yes.

Q Let's see. Do you have the figure on the whole county or the whole district?

A I have the city. The city will be -- there are now 13.60 percent Mexican-American in the city and 7.27 percent of blacks in the city.

Q If you were to gerrymander the districts around in such a way that you managed somehow to get all the minorities into one district, would it be true that they would still amount to less than one-half of the population in that gerrymandered district, no matter how you did it?

A Well, according to our figures here, it would come to less than 30 percent.

Q Does this plan as you have developed it here, does it pay respect to the concept of giving urban people an urban district and rural people a rural district?

A Yes, for the first time.

Q Are there any census tracts cut that you are aware of in that plan?

A I think there are -- I did not have a chance to confer with County Judge Shaw, but I think maybe there might be about nine that would be somewhat affected, only two in any great phase, I would say.

Q Is there anything else that you would like

to tell the Court about this plan before we go on to any other plans that have been submitted by other groups?

A Well, I feel that this plan makes an intelligent approach, having been in Lubbock since 1929 and studied the demographics, as well as the minorities. I feel that this is going to eliminate any possibilities we have of developing polarizations among our city. We have, of course, like unto some of the other cities in the state now, we have a strong interest among college students. We have a strong interest among the minorities, as we call them, relative to Mexican-Americans and blacks, and we also have a strong influence among what I call the young adults, the 25-to-40 group, but this gives a mixture to me, which will give us much more balance, as far as unity, not only from a representative standpoint but also from an over-all community standpoint.

I have a hard time personally addressing myself to any worries about my representing 75-B any less than 75-A. This is to me theoretical and has no practicality at all, but I realize that there has to be a division, but to me I feel like we look at them certainly as a community and recognize certain individuals having an opportunity to be elected, if they can gain strong support from the minorities, and I respect that and feel that it is important.

Q Anything else about your plan then that's on

the board?

A Well, one thing I like about it, too, it splits what I call Silk Stocking Avenue, and this to me is a healthy thing in that we are able again to homogenize the community with these districts.

Q With regard to the plan the Mexican-American Legal Defense and Education Fund proposes, what is your view of the fact that their District B, as I have the figures, has about 42 percent minority groups in it, blacks and browns? How do you feel about that as relating to whether or not that is more or less representation, considering the total number of blacks and Chicanos there are in Lubbock County?

A Well, it's difficult for me to speak in opposition to anything which I feel will help the Mexican-Americans and blacks, and my voting record reflects this, but I have this thought, though. I feel that in order for us to do the things that should be done in giving them representation, that there cannot be the power plays. I think there has got to be the strength that they now have as to infiltration and permeate the entire community, and it will do it much better by their incorporating both districts as we have done than trying to get into one isolated group and use straight muscle. I don't think they need it in Lubbock, and they certainly have reflected that in the last few years. I think we'll get there quicker in

a much more satisfactory vein with these districts than trying to build a bailiwick that might elect one individual.

Q Let's talk about deviations just for a minute, comparing this plan, the Governor's and Secretary of State's plan, to the other plan.

First of all, while your plan has in 75-A a deviation, I believe, of 114 from the total average across the state, is it true that the MALDEF plan has a deviation in that district, Plan A, of 1435?

A I understand that's true, and the Republican also has quite a deviation.

Q Something like 8,379 deviation in District A of the Republicans?

A Yes.

Q And then in District B you are 75 under the average in B while MALDEF is 133 less and the Republicans something like a thousand under the ideal district. Is that correct, as far as you know?

A That's true.

Q What else is there about either the Republican plan or what we call the MALDEF plan that you feel the Court should be made aware of and that you would like to say to the Court?

A Well, I think probably to crystallize what I am trying to say is, I think that these two plans both are

speaking in a defensive position, and I think that this plan speaks in a positive way to what they're trying to accomplish.

Q All right, sir. Now, if this matter were being resolved by the Legislature, as opposed to Their Honors, and if the delegation from Lubbock County had agreed on a plan by which Lubbock County would be redistricted in the normal reapportionment process in our Legislature, would you expect that that would be the plan which would be adopted by the Legislature if the Legislature should redistrict itself?

A This plan we have here?

Q Yes, sir.

A Yes, or something very close.

MR. YORK: Pass the witness, Your Honor.

CROSS-EXAMINATION

BY MR. KORBEL:

Q This plan is presently before the Court, but I thought it would be helpful so you could see it---.

MR. KORBEL: May I approach the exhibit?

JUDGE JUSTICE: Sure.

Q So there's no question what Representative

McAlister's plan does is take these two census tracts and exchanges them for these two census tracts (indicating), which is about an 11,000-people exchange.

Representative McAlister, isn't it true that sometime ago I showed this plan to you, and we discussed it, and you told me you did not object to this plan (indicating), would not object to the Court's implementation of this plan?

A Well, I think I said exactly what I said a moment ago, that is, that I would have a hard time opposing anything that would help the minorities.

Q Would you agree with me that if the minorities had better than 40 percent, let's say 42 percent of the population of one district, they would have a better chance of overcoming the problems that they have had with the Anglo racism in Lubbock County?

A I don't agree with that. I think the problem is deeper than that.

MR. KORBEL: I have no further questions.

MR. RICHARDS: Your Honor?

JUDGE GOLDBERG: Yes.

MR. RICHARDS: Let me make clear if I understand the plan we're proposing, it is drawn within the confines of the existing multi-member district and does not purport to alter any other district

and, as I understand it, your proposal, Representative McAlister, it would alter Laney's district by transferring two census tracts---.

THE WITNESS: Right.

JUDGE GOLDBERG: That's right. We understand that. We're in agreement.

Anyone else at this table? Mr. York or Mrs. Levatino?

MR. YORK: Just one other thing.

REDIRECT EXAMINATION

BY MR. YORK:

Q Taking some away from 76 and putting them in 75 and taking some out of 75 and back into 76, you have told us that that was a balancing-out, as far as your testimony was concerned?

A Yes.

Q It would not leave either 75-A or 75-B or 76 more than four to five percent or whatever away from the ideal district?

A That's correct, and we tried almost every formula available, every combination, and this was the only one we found that would come this close and at the same time

answer the problems in giving the minorities a significant voice in both districts.

MR. YORK: All right, thank you.

JUDGE GOLDBERG: Any other?

Now, who has the urge to speak?

MR. KORBEL: I have just a couple of things I would like to say about the plan, Your Honor.

JUDGE GOLDBERG: What?

MR. KORBEL: I have a couple of things I would like to say about the plan.

JUDGE GOLDBERG: All right.

MR. YORK: Your Honor, just before I forget it, we would like to offer this large plat, No. 48 and also the description of it as 49.

JUDGE GOLDBERG: Oh, I understood that.

(PLAN FOR LUBBOCK COUNTY, DESCRIPTION -- was duly marked as: DEFENDANTS' EXHIBIT NO. 49)

ARGUMENT IN BEHALF OF THE MALDEF PLAN FOR LUBBOCK COUNTY

MR. KORBEL: I would just like to point out to the Court we offered an exhibit, and I don't have the number, but it was an economic and social

analysis of Lubbock County among other counties. We would ask the Court to compare what this plan does with respect to minorities and with respect to communities of interest.

Our plan also preserves the existing district. It doesn't affect any other district in the state and simply divides the two districts.

Now, the Defendants were able to come up with a little better deviation, because they changed the census tracts which are included in the City of Lubbock District. There were a thousand extra people in the Lubbock multi-member district, so that's why our deviation is slightly higher than theirs, although it is negligible.

JUDGE GOLDBERG: How much is the deviation?

MR. KORBEL: Our deviation, I believe, Your Honor, is a thousand -- 133 up on one district.

JUDGE GOLDBERG: Percentage-wise, we want some percentage.

MR. KORBEL: That's .17 percent, two-thirds of a percent (sic). The other district is 1.92 percent, under 2 percent. I think that would be negligible. I think it's important to point out what the effect of their plan is, is to split the minority population. In that census study

that we have before the Court we have identified nine predominantly minority tracts. They put six minority tracts in one district and three in the other. We feel, Your Honor, this would certainly be detrimental to the interests of Plaintiffs. That's all I have got to say.

JUDGE GOLDBERG: Anyone else?

Mr. York or Mrs. Levatino?

MR. YORK: I think Mr. McAlister has expressed our sentiments, Your Honor. Thank you.

JUDGE GOLDBERG: Thank you very much.

That moves us on to El Paso.

DISCUSSION CONCERNING EL PASO COUNTY

MR. GEORGE: Following the Court's admonition, the clients have agreed on a plan in El Paso County, and the plan has been submitted by Moreno and the Republicans and is now withdrawn, and I believe all parties Plaintiff adopt the plan, previously sealed plan, submitted by Representative Coleman.

MR. KORBEL: That's correct, Your Honor. There were some typographical errors in Coleman's original plan, which we filed corrections on this

morning, and all Plaintiffs join in that plan.

JUDGE GOLDBERG: Where is that plan? Is it in evidence?

MR. KORBEL: Yes, I'll have it marked and submitted right now. I have four copies of it, Your Honor. It was filed this morning.

JUDGE GOLDBERG: What is this plan? What is it known as?

MR. KORBEL: This is known as the Coleman plan, sealed Coleman plan.

JUDGE GOLDBERG: C-o-l-e-m-a-n?

MR. KORBEL: C-o-l-e-m-a-n. He's a State Representative from El Paso County.

JUDGE GOLDBERG: All parties agree -- all parties on this side of the table, Plaintiffs agree -- Intervenors and everything else, but everybody over there?

JUDGE JUSTICE: Do I understand that the State has not agreed?

JUDGE GOLDBERG: I'm sure they haven't.

MR. KORBEL: I am also authorized to inform the Court that two State Representatives from El Paso County also agree with this plan.

JUDGE JUSTICE: All right, offer it.

MR. KORBEL: Yes, sir, I'm going to.

JUDGE GOLDBERG: Called the Coleman plan, and which exhibit is it? Do we know?

MR. KORBEL: We'll call it Wright Exhibit 37.

THE COURT: What?

MR. RICHARDS: Wright Exhibit 37.

JUDGE GOLDBERG: Wright did not have an exhibit in El Paso, did they?

MR. RICHARDS: No.

JUDGE JUSTICE: Wright Exhibit 37 is received in evidence.

(PLAN FOR EL PASO COUNTY, WRIGHT -- was duly marked as: PLAINTIFFS' EXHIBIT NO. 37)

MR. YORK: Is that with a "W," Your Honor?

MR. RICHARDS: W-r-i-g-h-t, Charles Wright.

JUDGE GOLDBERG: That brings us to you, Mr. York.

MR. YORK: The Defendants, Your Honor, have not adopted a plan for El Paso County.

JUDGE GOLDBERG: You pass, all right.

Does anybody else have anything? That finishes El Paso. Is that correct? We're now to

denouement and Nueces County.

TESTIMONY CONCERNING NUECES COUNTY

MR. YORK: Your Honor, we're in the embarrassing position of having completed two counties before lunch, and looking at what was left, Representative Hale had to begin a committee meeting at the Constitutional Convention at 2:00 but promised to be back at 2:15.

JUDGE GOLDBERG: He's here.

MR. YORK: I'm sorry. I didn't see him come in. We're in good shape then.

JUDGE GOLDBERG: Great.

MR. YORK: I made excuses and didn't need to. That would be our proof.

JUDGE GOLDBERG: What do you folks to the right have? Do you have any witnesses?

MR. KORBEL: Your Honor, depending on what Representative Hale has to say, we may offer a witness.

JUDGE GOLDBERG: Well, we'll listen to Representative Hale.

MR. YORK: Your Honor, since we have done some good on moving up the time a little bit,

could we have about five minutes?

JUDGE GOLDBERG: Yes, sir.

MR. YORK: We had anticipated having a recess before---.

JUDGE GOLDBERG: It's 2:00 o'clock. We'll give you ten.

MR. YORK: All right, sir.

(REPORTER'S NOTE: The Court then, at 2:00 o'clock, P.M., January 28, 1974, recessed until 2:10 o'clock, P.M., the same day, at which time it reconvened.)

JUDGE JUSTICE: Please be seated. I don't believe the Attorney General is represented at this point.

(REPORTER'S NOTE: Mr. York enters the courtroom.)

JUDGE GOLDBERG: Do you need a little more time, Mr. York?

MR. YORK: No, sir, thank you. We appreciate it.

May it please the Court, for purposes of Nueces County only, we are advised by Secretary of State Mark White the Defendants will adopt the plan which Mr. Hale is about to discuss before the Court, and since it is a divided delegation, that is, two members for this plan, and Mr. Truan, the third member, for another plan, that for the purpose of allowing the Court to have the two competing views of legislative intent from this county, the Defendants will, in effect, adopt both the Hale plan and the MALDEF plan.

(LAUGHTER)

JUDGE GOLDBERG: What are you doing, impaling us?

MR. YORK: Sir?

JUDGE GOLDBERG: Are you impaling the Court by this?

MR. YORK: No more than others did.

JUDGE JUSTICE: Let me see if I understand.

(LAUGHTER)

JUDGE JUSTICE: You're urging both plans on the Court? Is this it?

MR. YORK: Defendants adopt both plans.

JUDGE JUSTICE: All right.

JUDGE GOLDBERG: We can flip a coin?

MR. YORK: I wouldn't suggest that the Court would ever resort to that in a case like this.

JUDGE GOLDBERG: Well, are you equally -- you have no conviction with respect to these plans?

MR. YORK: Your Honor, we're here simply to convey the wishes of our client to the Court in that regard.

JUDGE JUSTICE: Let's take him out of this embarrassing position.

Go ahead, Mr. York.

JUDGE WOOD: Maybe Mr. Hale has a feeling about it, and maybe Mr. Truan, and then we can hear it from them both.

MR. YORK: I believe that's correct.

L. DeWITT HALE,

a witness called by the Defendants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. YORK:

Q Give us your name.

A L. DeWitt Hale.

Q You're a lawyer, and you've been a member of the Texas Legislature for -- well, beginning in 1952. Is that correct?

A 1953, yes, sir.

Q '53? And your testimony about your background and the various committees you have served on and so on is already a part of this record, so I won't belabor that.

A Yes, sir.

Q Have you and Mr. Salem, I suppose, principally -- will you tell us about the plan you are here to talk to the Court about? Do you have a map of the plan that

you are here to advocate?

A Yes, sir, I have. As you know, Counsel, I submitted a plan last December in a sealed envelope pursuant to the Court's instructions, which was simply my individual handiwork. After we learned through your office that the Court would not hear evidence on any of these plans unless they had been adopted and given some official sanction by one of the Defendants, as you know, we were contacted and all the delegations in the seven counties involved were contacted by the Secretary of State and other state officials and urged to get together and try to develop a plan.

As a result of that, Mr. Truan and Salem and I met together extensively the first evening we found out about that, which, I believe, was last Thursday, if my memory serves me correctly, and this plan was the outgrowth of that meeting.

Q I have marked or put an exhibit number on a proposed reapportionment plan for Nueces County which you have handed to me, which is a description, along with the map and various ethnic breakdowns and census tract information.

A Yes, sir.

Q Do you have a larger map of that same thing?

A Yes, sir, there is a small map attached to that plan.

MR. YORK: We'll mark this. See, Mr. Clerk, which numbers do we have now next up?

CLERK OF THE COURT: 50 and 51.

MR. YORK: We marked the map, Your Honors please, Defendants' Exhibit 50 and the narrative description as 51.

(HALE PLAN FOR NUECES COUNTY, MAP -- was duly marked as: DEFENDANTS' EXHIBIT NO. 50)

(HALE PLAN FOR NUECES COUNTY, DESCRIPTION -- was duly marked as: DEFENDANTS' EXHIBIT NO. 51)

Q What is up here as Defendants' Exhibit No. 50, is that the map that was the result of the negotiations and conversations during this week after you were advised the Court would not hear evidence on a plan unless it were adopted by a party?

A Last week, yes, sir.

Q What considerations were in your mind as the plan was developed, please, sir?

A First, let me say that the consideration that motivated the first plan I filed, and from basic population

standpoint there's very little difference between the first plan I filed and this one, other than we did do a little shuffling of census tracts, but the population of Nueces County is roughly 51 percent majority, 49 percent minority, almost a 50-50 split. I started out on this whole redistricting idea under the theory that if it were possible to do so, each group should have one and a half representatives. It's pretty hard to divide a representative, although there are probably people who think many of us are only a half representative. (LAUGHTER)

A To do that, the plan I had originally developed, and this plan the same way, has two districts, each of which are roughly two to one. One is two-to-one Latin American; another district is about two-to-one Anglo American; and the third district is about 50-50, and that was the basic premise on which I started and on which we tried to work.

Now, the adjustments on here that were made, the middle district is the one where Mr. Truan lives---. Could I walk down there and show you on the map?

MR. YORK: Yes, sir, if that's all right with the Court.

THE WITNESS: I don't know if I can get out of here (indicating).

JUDGE GOLDBERG: Let him out of jail.

(REPORTER'S NOTE: The Clerk complies and the witness approaches the map.)

A This map was developed -- our working tool was the map of the MALDEF plan, and what we had done there was to take the area where Mr. Truan lived right here (indicating), and we took this area and expanded it south. The original plan which I had had a district built around Mr. Truan, which went in sort of a northerly direction toward the base, and that resulted in a less proportion of Mexican-American than this district does. This district gives Mr. Truan -- I have the exact figures here -- but a predominantly Mexican-American district, about two to one. This district, the large district here, would be about two-to-one Anglo, and this district here with the vertical crosshatching would be about 50-50 on population, and the adjustments between this and the map that I filed in December, about the only difference there is that Mr. Truan's district would move sort of northwest, rather than northeast from his area, and the reason for that change was to add more Mexican-American population into the district and take out some of the Anglo-American population out of his district.

That would give us three districts.

One

district would have 60.3 Chicano, 6.1 black, 32.4 white. The other district, the reverse of that, would be 48-C on there and would be 31.7 Chicano, 1.3 black and 65.7 Anglo, so in one instance you have about two-thirds minority, and the other one you have about two-thirds majority.

The third district ends up 43.1 Chicano, 7.3 black and 48.9 other or roughly about 51-49 minority.

Q Are these, Mr. Hale, districts marked on 50, do they have the A, B, and C markings?

A It's coded at the bottom, Counsel, by crosshatching.

Q Just by crosshatching?

A Yes, sir.

Q Do you mind if I add to that -- is this A in the center?

A The horizontal crosshatching is 48-A.

Q I'll put an A in there (indicating).

A Yes, sir. And the vertical crosshatching is B.

(REPORTER'S NOTE: Counsel marks on exhibit.)

A And then the angular crosshatching at about a 45-degree angle there is C.

(REPORTER'S NOTE: Counsel marks on exhibit.)

Q I have marked it to represent that.

A Excellent.

Q Your breakdown in the Exhibit 51 which accompanies this map shows the numbers or percentages of ethnic groups in these districts and also shows the total numbers of people in the districts, does it not?

A Yes, sir, by census tracts and by race.

Q And are these districts, these districts A, B and C, are they true to the notion of trying to come as close to the ideal district in terms of number as you can?

A There's very little deviation in those from the ideal.

Q What else is there about this plan, this Exhibit 50 that's on the board? What else is there about that plan or the manner in which it was developed or what it does that you feel should be in the record or should be told to the Court?

A Well, I think I have given you our thinking behind it. As I say, from Mr. Salem and my standpoint we were not too concerned about drawing these lines in the sense that we were going to be paired under any arrangement,

since we live on the same street. Mr. Truan, we would like, consistent with our objective of getting balance in the delegation, which we have been fortunate enough to have considerable balance in our delegation in the last ten years, and we felt like it should be maintained on single-member districts, and by trying to get this balance, rather than have imbalanced districts, we felt would achieve the purposes of the redistricting that the Court wanted better than it would and with less polarization in the entire county than it would if you had top-heavy racial majorities in the individual districts.

JUDGE GOLDBERG: What is this exhibit number?

MR. YORK: This is 50, Your Honor.

JUDGE GOLDBERG: Thank you.

Q What about the other plans that have been proposed to the Court, the MALDEF plan? What comments or views do you have about that?

A Well, of course, it provides that imbalance that I referred to a minute ago, and that was my main objection to both it and the Republican plan. You were nice enough to provide me with copies of those two, and I did look them over. For instance, on the MALDEF plan you end up with one district that has almost 75 percent minority to 25

percent Anglo. You have another district that ends up with over 60 percent minority and only about 38 percent Anglo, and then you end up with a third district, which is going to have about 86 or 87 percent Anglo. Well, the imbalance there disturbs me, because what you're going to do is polarize the entire county on that. By getting that tremendous imbalance there, you're going to force extremes in the political spectrum, rather than trying to pull the political spectrum toward the middle of the road, and that concerns me.

Q On the MALDEF plan then from your viewpoint how many minority type representatives does it appear to be aimed toward putting in this three-person delegation?

A The MALDEF plan?

Q Yes, sir.

A Oh, I think it would solidify two out of the three.

Q So that some 66 percent of the delegation would be minority, while the population in the district is only about 50 percent minority?

A That's true, less than 50 percent -- about 49 percent.

Q Is there anything else about the -- particularly the MALDEF plan that you would like to comment on or point out to the Court?

A Well, of course, if you'll look at the map of the MALDEF plan, the districts are not as cohesive. I hesitate to use the word "gerrymandering" but the plan we have adopted here, we start out with two very compact districts and then put the rest of the county in the third district, and the MALDEF plan is a little more circuitous in the way in which they tied the census tracts together, apparently designed to achieve the purpose that they achieved, apparently.

Q That is, designed to get two minority representatives, as opposed to less than that?

A To one and a half.

Under this plan that we're submitting here through the Secretary of State, as I say, under this logically, and, you know, politics doesn't necessarily follow logic, but under this plan you would expect one Anglo-American and one Mexican-American representative, and then the third area would be a 50-50 under the 1970 census. That would mean it's probably slight predominantly Mexican-American now, this being 1974, but this would be a battleground area, and my guess is that in a battleground area like that it would depend upon the man that was running. That district would probably elect a Mexican-American on occasion and probably elect an Anglo-American on occasion, and in a county as evenly divided as ours, I think that's a very desirable situation.

Q What about the plan submitted by the Republicans? Have you had an opportunity to comment on it?

A Yes, sir, I did. It is very similar to the MALDEF plan, the only difference being in the way in which they handle Robstown in the western part of the county. They tagged Robstown in the western part of the county into the area where Mr. Truan lives, whereas, the MALDEF plan gives Mr. Truan a compact little district in the center of the county and ties Robstown into the northern part of the county. Other than that, it is the same, and population-wise and percentage-wise and result-wise it is substantially the same.

Q You mean the results of the Republican plan would be much like the results of the MALDEF plan?

A The percentages are comparable. They're almost the same. I went through and checked the percentage figures while ago. They end up with two districts with heavy minority and one district 87 percent Anglo.

Q Do you have any idea what the Republican proponents of that plan might have in mind by doing that?

A The only way I can see, they apparently think they're going to nail down a district on the south side of Corpus Christi that will elect a Republican representative, and I presume that that was the motivation behind that particular arrangement of the tract.

Q Is there anything else of significance about any of the three plans that you would like to comment to the Court about?

A I would just say -- and this is more or less repetition, Counsel -- that I would hope that the Court would look with favor on a balanced situation that would -- well, where we would get the least trauma and polarization of public opinion in the county. We have had too much of it here in the last few years, and I hope we can minimize it in this litigation.

MR. YORK: Thank you, Representative Hale.

JUDGE GOLDBERG: Cross-examination?

MR. KORBEL: I just have a couple of questions, Your Honor.

CROSS-EXAMINATION

BY MR. KORBEL:

Q Now, would it be correct in this plan that you propose that you tie the Robstown area in with the Gulf Bay front area here (indicating)?

A That's correct.

Q I'm referring now to Defendant's Exhibit 50.

A Yes.

Q. Can you tell me what the approximate racial breakdown on the Robstown area is?

A. Robstown is predominantly Mexican-American.

Q. Would you say around 80 to 90 percent Mexican-American?

A. Oh, that's in the ball park, Counsel. I'm not sure of the exact figure.

Q. For the purpose of the record, it's in the record that Robstown is made of Census Tract 56 and 57, which are 78.29 percent Mexican-American and 95.58 percent Mexican-American.

Can you give the Court an idea of what recial and ethnic breakdown of the Gulf front area is?

A. It is predominantly Anglo-American.

Q. Would you say 80 to 90 percent Anglo-American?

A. Well, the district you have carved there has 87 percent Anglo in the entire district that you set up there.

Q. Can you give the Court an idea about the income, comparative income, between those two areas?

A. It would only be a guess. Robstown is a low income area. The Ocean Drive area around Corpus Christi is a high income area, comparatively speaking.

Q. Can you give the Court any sort of a reason

that you want to tie Robstown into a Gulf front

A. Well, we didn't want to gerrymander. I explained before, Counsel, the plans submitted here do the same thing. You tie Robstown in with another area here in one plan, and MALDEF comes along here and ties it in with another area in Corpus. It is a question of whether you want balance in the district or whether you want the district overwhelmingly in one direction so as to completely polarize the political thinking of the county.

Q. Would you agree with what Representative Finney said this morning in drawing districts you should attempt not to include high registered, high income Anglo precincts with low registered, low income Mexican-American and black precinct districts?

A. I didn't hear Representative Finney's testimony. Would you ask me the question, and I would be glad to answer it.

Q. Would you agree that in drafting single-member districts it is a good idea not to include high voter registration, high income Anglo districts with low voter registration, low income Mexican-American census tracts?

A. I don't know that I would have an opinion one way or another on that. I would hope that we're not drawing these lines to make ourselves racists. I hope we're

trying to get away from that, Counsel, and I certainly did in drawing this plan. There was no attempt to do that.

Q. Did you consider community of interest at all?

A. Yes, sir, sure did.

Q. What community of interest is there between Robstown and the bay front area?

A. Well, of course, why should they be in Nueces County then, Counsel? We've been representing them for years, and they have been in the county, and they apparently think we've done a pretty good job. I get bigger majorities in Robstown than I do in Corpus when I run for re-election.

MR. KORBEL: I have no further questions.

JUDGE GOLDBERG: Any other?

MR. YORK: No questions.

MR. RICHARDS: No, sir.

JUDGE GOLDBERG: Thank you.

(WITNESS STANDS ASIDE.)

JUDGE WOOD: You're going to offer that exhibit, I presume?

MR. YORK: I thought I did. We offer Exhibit 50 and 51.

MR GEORGE: That brings up a housekeeping matter. The plans that were submitted by the

parties, the Court ordered, and I have not offered them on the theory that they were before the Court as part of our response to that order and did not need to be submitted as evidence.

JUDGE GOLDBERG: I think that's right.

JUDGE WOOD: Sure, they will be received in evidence.

JUDGE GOLDBERG: They'll be received. In other words, the plans that were filed, sure, we asked them to.

MR. GEORGE: Thank you very much.

JUDGE GOLDBERG: Mr. Korbel, do you have a witness?

MR. KORBEL: Does the State want to call Representative Truan?

MR. YORK: Well, since the MALDEF, I think, may be more familiar with that plan, we will allow them to do that.

MR. KORBEL: First of all, Your Honor, I would like to say that my indignation increases. We weren't served a copy of the latest -- the State's latest approach to this until just during the recess. It becomes very difficult to cross-examine on the basis of that plan.

JUDGE GOLDBERG: We'll make due allowances,

Mr. Korbel.

MR. KORBEL: Thank you, Your Honor, I appreciate that.

CARLOS TRUAN,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. KORBEL:

Q. Representative Truan, can you describe for the Court the effect of this plan which has been introduced as Defendants' Exhibit 50, which is their alternative plan for Nueces County?

A. In my opinion what this plan would do would be to dilute the Mexican-American votes in Census Tracts 56 and 57, referred to before as the Robstown area, and would not enable the predominantly Mexican-Americans who live in those two census tracts to have an effect in who is elected, because they would be under this exhibit with a predominantly Anglo affluent area, and they have no community of interest

at all.

Q. In terms of registered voters and turn-outs, would it be fair to say that Mexican-Americans are registered in far fewer numbers and they turn out in fewer numbers than the more affluent Anglos in the bay front area?

A. Traditionally this has been the case, especially in view of the registration laws we have had in the state until just very, very recently we were able to pass a meaningful Voter Registration Act, but the rule and not the execption has been by and large the people have not been able to participate in large enough numbers, as compared to the more affluent residents that live in the south side Ocean Drive area of Corpus Christi.

Q. There has been testimony during the trial about a corridor area which was described in this case and also in the Cisneros school case. Can you describe for the Court generally in terms of census tracts where the corridor area lies?

A. The corridor area essentially lies in what has been referred to as -- well, for the most part in 48-A of the exhibit -- I'm sorry -- 48-B. I'm a little confused -- I'm sorry -- census was changed.

Q. I'll rephrase the question. Would it be fair to say -- well, first of all, when this plan which has been characterized as the MALDEF plan was drafted, were you

consulted while that plan was drafted?

A. Yes, sir.

Q. Was one of the considerations to try and bring together the corridor area?

A. That's true.

Q. And is that because that corridor area has specific interests?

A. Yes, the corridor area, which consists by and large of Mexican-Americans and blacks and low-income whites, have what I interpret as a community of interests.

Q. Would it be fair to characterize District A in the MALDEF plan as an attempt to bring together that corridor area into one district? Would that be fair to say?

A. Knowing Chorpus Christi as I do, it definitely would.

Q. O. K. Can you describe for the Court the effect that the Defendants' alternate plan here has on that corridor area?

A. What it would do is it would limit the possibility of the large number of Mexican-American and black there from having an opportunity to elect two Mexican-Americans, which would be the case under the MALDEF plan but not under the -- whatever the exhibit number is, the Hale.

Q. Well, would it be fair to say it would split

the corridor area about in half?

A. It would split the corridor area.

Q. Can you think of any community of interest to tie Robstown in with the bay area?

A. I cannot think of any. In fact, that is the main reason why I opposed this plan. I just do not feel that it is fair for the people in that area, for the predominantly Mexican-American and low income, to be tied in as one-third or a minority with a much larger very affluent area, the most affluent area in Corpus Christi. It will do nothing more in my opinion than just disenfranchise those people instead of tying them in with other census tracts in which they would have a greater community of interests.

Q. Do you have anything else you would like to say in favor of the MALDEF plan, Representative Truan?

A. Well, the MALDEF plan in my opinion would allow the citizens of Corpus Christi and Nueces County to more effectively work in the particular areas for whoever is running in that area. It will benefit as much the minorities, the Mexican-Americans and the blacks, that live predominantly in the corridor area, as well as out in West Nueces up in the Robstown area, like I mentioned, and at the same time in the deep south side where you have the more conservative, more affluent, where the most Republicans live, and opportunity for them to be able to participate in an

election of one that runs in that particular area. To me the MALDEF plan would in my opinion meet the needs of what we want to have in single-member districts.

Q. So there's no question you favor the MALDEF plan. Is that correct?

A. Yes.

Q. You have been in touch with other Mexican-American leaders in Corpus Christi. Is that correct?

A. Yes, I have.

Q. Can you describe their responses to these plans?

A. When I met with Mr. Hale and Mr. Salem last Thrusday night, we worked several hours trying to get a consensus on redrawing the lines. This is the first time I had an opportunity to work with Mr. Hale. He had submitted his plan to the Court without my having an opportunity to look at it, and I understand now that it was a sealed plan mailed in in December, of which I had not been advised or had an opportunity to comment on it, so I welcomed the opportunity last Thursday to work with Mr. Hale and Mr. Salem on what we might be able to come up with.

My consultation with members of the community by phone, particularly leaders whom I trust their judgment who have been in politics much longer than I have, people like Dr. Hector Garcia, founder of the G.I. Forum, people

involved in the community like Tony Canales and Rudy Garza and James Deanda, an attorney, and Dr. Clotilde Garcia, as well as communicating by letter with another person or persons, Mr Paul Montemayor, active with the United Steel Workers of America, Mr. Solomon Ortiz of Robstown, who is a County Commissioner, the first Mexican-American County Commissioner of our county. I wanted to have their opinion, and by and large they were greatly opposed to having the Robstown area, Census Tracts 56 and 57, together with the deep south side, a more affluent area of Corpus Christi, and I advised then Mr. Hale and Mr. Salem I would not be able to support this plan in view of the fact that not only does it do harm, as I mentioned, to the people in the census tracts but those that are involved in the community much longer than I, likewise, did not support it.

MR. KORBEL: I have no further questions.

THE COURT: Any cross-examination?

MR. YORK: Your Honor, what we would like to do is call Mr. Hale very briefly in rebuttal, I think, rather than cross-examine Mr. Truan, if we may.

MR KORBEL: Are we going to have rebuttal?

JUDGE JUSTICE: Well, let's go ahead and hear it.

JUDGE GOLDBERG: We want to have the full

facts.

Go ahead, call Mr. Hale.

(WITNESS STANDS ASIDE)

L. DeWITT HALE,

a witness recalled by the Defendants, having been previously duly sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION

BY MR. YORK:

Q. You have heard the testimony given by Representative Truan. Is there anything about that testimony you would like to comment on for the Court?

A. Well, there were one or two comments, for whatever value they might have for the Court. Tying Robstown in with the southern end of Corpus Christi is certainly not going to deprive them of adequate representation. It will have exactly the opposite effect. It will be a situation more of where the tail will wag the dog. The south side of Corpus is pretty evenly split along political lines, which means if there are candidates running from two

political complexions in that district, the one to carry Robstown would be the winner. Whoever is representing that district, if it was drawn this way, I assure you they're going to give a lot more time and attention to Robstown's problems than they do the south side of Corpus Christi problems, so from the standpoint of saying that they have no adequate representation under the plan, I violently disagree with that, because I think they would be more than adequately represented. The splitting of the corridor area he mentioned a moment ago is done only to the extent of taking about one or two census tracts on the northeast off of what would be Mr. Truan's district under this plan and adding some to the northeast so that basically the corridor, as it is outlined, would still be in what is now Mr. Truan's district and would still be given the same able representation that Mr. Truan has been giving that entire county for the last six years.

Despite some of our minor differences on this plan, Mr. Truan has done a very able job representing his county, and he and I have had very few differences politically.

Q. Anything else?

A. That's all.

MR. YORK: Thank you, Your Honor.

Thank you Representative Hale.

(WITNESS STANDS ASIDE.)

JUDGE GOLDBERG: Now, does that ---? Are we all complete on testimony?

MR KORBEL: I have no further witnesses. I would like to say a few words in favor of the plan. That's all.

JUDGE GOLDBERG: Well, Mr. Korbel, I don't want to deny you the right to argue, but keep it short if you can.

MR. KORBEL: The only thing ---.

JUDGE GOLDBERG: Really, you've said it four or five times already, but go ahead.

MR KORBEL: The only thing I want to point out to the Court is that the record indicates the area south of Webber Road, which is primarily the Gulf front area that we're talking about here, complies what Dr. Cotrell termed as the highest incidence of racial voting, and Representative Hale, while I respect his opinion, it's not borne out by the record, Your Honor.

JUDGE GOLDBERG: Now, does anyone else feel the urge to speak?

Do the Plaintiffs-Intervenors rest?

MR RICHARDS: Oh, yes, Your Honor. We do join with MALDEF in Nueces County in support of the plan.

JUDGE GOLDBERG: The MALDEF plan?

MR. RICHARDS: Yes.

JUDGE GOLDBERG: Mr. Bonner, do you have anything further?

MR.BONNER: No.

JUDGE GOLDBERG: Mr. Korbel?

You've had your last word?

MR KORBEL: Yes, Your Honor.

JUDGE GOLDBERG: Mr. York and Mrs. Levatino?

MR. YORK: Your Honor may recall we mentioned earlier this morning the problem of filing deadlines. We have nothing further on ---.

JUDGE GOLDBERG: We're going to get to that in a little bit.

MR. YORK: All right.

JUDGE GOLDBERG: Let's leave that aside for the moment. You have not heard the last word on that.

MR. YORK: I was afraid of that.

JUDGE GOLDBERG: Well ---.

MR. YORK: No, Your Honor, we would like an opportunity -- we would formally rest at this time subject to those problems. We would like to have an opportunity to go through the exhibits.

JUDGE GOLDBERG: Oh, sure, get your record

-- everyone will have that opportunity.

What's the matter with you now?

MR.RICHARDS: On the matter of attorneys' fees, I do have a stipulation with the State in terms of my hours in this case in the event the Court should order attorneys' fees, which I should like to get into the record, if I may. Would I be allowed to put them in?

JUDGE GOLDBERG: Put it in.

MR.RICHARDS: I have indicated to the State that my time records reflect that I have spent 225 hours of lawyer time, my time, since this case was reopened, and we submit that as time devoted to the case, and the State has agreed that any lawyer is certainly worth $40.00 and hour, and in my case it would probably be sixty-five or seventy, but probable forty will be adequate, Your Honor.

JUDGE GOLDBERG: Now, is there any other housekeeping detail?

MR KORBEL: Your Honor, we haven't entered into a stipulation on attorneys' fees yet. I hope that we can submit that to the Court.

JUDGE GOLDGERG: We'll get to that a little bit later, too.

Mr. Gladden, I assume you have said

everything you care to?

MR.GLADDEN: Your Honor, I have said everything I have to say, except in connection with Counsel's idea about filing deadlines, and I ---.

JUDGE GOLDBERG: Before we get to that, I was calling the roll. I didn't want to discriminate against anybody.

MR. GLADDEN: No problem, no questions.

JUDGE JUSTICE: Mr. Crawford?

MR. CRAWFORD: Your Honor, it might be in order since Representative Hale is here and Mr. Truan, we might want to put them on as witnesses insofar as the issue of filing deadlines.

JUDGE GOLDBERG: I don't think we need that. What would you prove by them, Mr. Crawford?

MR. CRAWFORD: It seems the testimony by all of the representatives is that there is no question whatsoever about their agreement for single-member districts, so it leaves the question now of why shouldn't we move forward.

JUDGE GOLDBERG: Well, I think that's pretty clear. We understand. Everybody's position has been pretty well declaimed. This is something else I think we ought to consider some other problems in

connection with it.

I want to be sure now that in Tarrant County we have the Escalante plan. Is that right? And we have the Republican plan. What else in Tarrant?

MR. BONNER: The Gaskin.

JUDGE GOLDBERG: Gaskin, that's right. That's three.

Then Jefferson.

MR. YORK: Well, we have the State's in Tarrant County, the State's plan.

JUDGE GOLDBERG: Oh,yes, the State plan. Do you know that exhibit number?

MR. YORK: Briscoe-White No. 1. It has been added in as 43 and 44.

JUDGE GOLDBERG: We have four then, the Escalante, Republican, Gaskin and the Briscoe-White No. 1.

MR.RICHARDS: In Jefferson County we have a Plaintiffs' plan ---.

JUDGE GOLDBERG: That's the Wright plan.

MR.RICHARDS: The Wright Intervenors plan. Then we have the Republican plan, and we have what I had mislabeled the County Commissioners plan, which has become the State plan.

JUDGE GOLDBERG: The county what?

MR.RICHARDS: I had called it inadvertently the County Commissioners plan, but it's the State plan, so there are three plans.

JUDGE GOLDBERG: Three plans in Jefferson. I'm going to call it the Wright plan for shorthand, the Republican plan and the State plan in Jefferson.

McLennan.

MR. RICHARDS: Well, we have the Wright -- the collective plans on the Plaintiffs' side joined in by the State, and then you have the County Commissioners Moore plan.

JUDGE GOLDBERG: And the Republican.

MR. RICHARDS: I thought yours was the same as ours.

MR.GEORGE: There's one slight deviation.

JUDGE GOLDBERG: And Travis.

MR.CRAWFORD: We have the Chapman and Wright plan.

JUDGE GOLDBERG: They're the same?

MR.RICHARDS: Yes.

JUDGE GOLDBERG: What else?

MR. GEORGE: We have the Republican plan.

JUDGE GOLDBERG: We don't want to forget the

Republicans.

In Lubbock everyone was in agreement on Lubbock, were they not?

MR. KORBEL: No, no, Your Honor.

JUDGE GOLDBERG: Oh, no.

MR.KORBEL: There was a State plan and then the ---.

JUDGE GOLDBERG: State plan, that's right.

MR.KORBEL: --- the Moreno plan -- MALDEF plan.

JUDGE GOLDBERG: Is it the MALDEF?

MR.KORBEL: The MALDEF plan is what it has been referred to.

JUDGE GOLDBERG: Yes, I knew we had the State plan.

El Paso.

MR.GEORGE: Don't forget the Republican.

JUDGE GOLDBERG: El Paso.

JUDGE JUSTICE: We have a Republican plan in Lubbock County.

JUDGE GOLDBERG: I got it.

El Paso?

MR. KORBEL: The Coleman plan, Your Honor, has been adopted by MALDEF and all the other Palintiffs, including the Republicans. The State

has no plan.

JUDGE JUSTICE: The State has no plan.

JUDGE GOLDBERG: The Republicans?

MR. GEORGE: We adopted the one plan.

JUDGE GOLDBERG: All of you have one plan in El Paso.

And in Nueces we have Exhibit 50, the State plan. Is that right?

JUDGE WOOD: They're both State plans. You have the Hale plan and the Truan plan.

JUDGE GOLDBERG: That's right. Exhibit 50 is one plan, and Representative Truan -- it's the MALDEF plan.

MR. KORBEL: Yes.

JUDGE GOLDBERG: Which Representative Truan adopted. Is that correct?

MR. KORBEL: Yes, the State also adopts that, I understand.

(LAUGHTER)

JUDGE GOLDBERG: We have that fully in mind.

MR. GEORGE: We also have Republicans in Nueces County.

JUDGE GOLDBERG: Don't let me forget them, Mr. George. I don't mean to.

The Court will take about a five-minute

recess. I really wish you would stay in the court-room unless you have some urgency about leaving. I want to come back and make some announcements to you all, at which time we may have to go into the possibilities of a post-ponement. They may pass into vestitude or some-thing. Let's wait and see until I come back and make the announcements with respect to some of the basic matters that are before us.

(REPORTER'S NOTE: The Court then, at 2:55 o'clock, P.M., January 28, 1974, recessed until 3:00 o'clock, P.M., the same day, at which time it reconvened.)

JUDGE GOLDBERG: Be seated.

First of all, I really want to say that I appreciate the patience and cooperation bringing us to this hour. Time is very essential, it seems to us, no matter how you look at it, and I want to indicate to you all right now what the majority decision of the Court is with respect to every one of the legislative districts that are in controversy in the hope that maybe this

postponement problem may disappear.

It seems to me that -- I'll be open to hear why this is such an urgent matter. I have an open mind, and I'm sure the rest of the Court does, too, but I thought in analyzing it you ought to know, because we're going to have to put this out very soon, and I want you to have plenty of time to go heavenward to the Supreme Court for any stays, do anything you want, and that's one of the reasons why I felt under a very severe pressure to come out with something so that you have plenty of opportunity to go to the Supreme Court for stays or anything else. I think that's only fair.

With respect to -- I'm going to go by counties -- with respect to Tarrant County, the majority Court is of the opinion that the Escalante plan should be adopted.

With respect to Jefferson County, the majority of the Court is of the opinion that what I call the Wright Intervenors plan should be adopted.

With respect to McLennan County, the Wright Intervenors plan should be adopted.

With respect to Travis County, the Chapman-

Wright or the Wright-Chapman plan should be adopted.

With respect to Lubbock, the MALDEF plan.

With respect to El Paso, the MALDEF-Coleman or Coleman-MALDEF.

And with respect to Nueces, the MALDEF plan.

It is our contemplation that the majority opinion of the Court together with the Order -- and the Order will have attached to it as exhibits the reapportionment for each of these counties by the end of the day tomorrow, enabling anyone to take any further steps they want.

Judge Wood dissents and will file certainly by the end of the week ---.

JUDGE WOOD: By noon Friday I will have my dissent, realizing that the Defendants may want a stay, I'll start dictating tonight, and I have a draft of the opinion, and I should have it being typed on Wednesday, and I'll have it filed by noon Friday.

JUDGE GOLDBERG: Now, Mr. York, that leaves open, and I said I would hear from you further as to why you think it is urgent that we move back to February 4th, I believe it is, the filing date, which is a very, very short period of time. I don't

know, for example, suppose you went up for a stay. I don't know just where everything would be -- in a high state of confusion, it would seem to me. I'm just trying to look at it from everybody's point of view. If you have any comments, I would be very glad to hear it.

MR.YORK: Your Honor, we had intended and still hope to be able to put Secretary of State White on the stand to make part of our record about that aspect of the case. He, of course, is the chief election officer of the state and is most familiar with the problems of enforcing the various laws of the state.

JUDGE GOLDBERG: Surely.

MR. YORK: I think it makes a more clear presentation.

JUDGE GOLDBERG: Well, is he here?

MR. YORK: Yes, he's here and has been here throughout the day.

JUDGE GOLDBERG: Well, that's fine.

MR. RICHARDS: May I say that we have no objection in light of the Court's announcement being on us this quickly. We have no objection to restoring the February 4th filing date. I'm speaking for the Plaintiffs I represent.

JUDGE WOOD: And if my dissenting opinion is going to be filed by noon Friday, the opinion will be complete long prior to that time, and if everybody wishes for us to take this action, we'll move is back to the 4th.

JUDGE GOLDBERG: Sure, I'll be glad to.

MR. HILL: I'm a great believer, Your Honor, when parties come to an agreement, it's time to adjourn.

JUDGE GOLDBERG: Mr. Hill -- General Hill, I agree with you, as usual, a very wise statement. Now, Mr. Korbel, do you have any ---?

MR. KORBEL: All of the parties are in agreement with that also, Your Honor.

JUDGE GOLDBERG: Well, I never thought we would get unanimity here. It seems as though we have done the inevitable.

MR. GEORGE: The Republicans are not ---. (LAUGHTER)

MR.GEORGE: We would prefer to have the Court's Order to be in effect as it now stands providing for the February 18th deadline. We have arranged our primary schedule, our filing machinery on that basis and assumed that the Court would stay with its Orders. We have no

violent objections to reworking it, but we had made arrangements on that basis.

JUDGE GOLDBERG: How much trouble would it be, Mr. George?

MR. GEORGE: I don't have any real idea. That's my instructions from my clients. Their position was that they had made the changes based on that.

JUDGE GOLDBERG: Let's see. When is the 4th?

MR. GEORGE: The 4th is a week from tomorrow, as I recall.

JUDGE GOLDBERG: Well, we have a pretty fast communications in this day and time, I believe.

MR. GEORGE: I suppose that's correct.

JUDGE GOLDBERG: You don't think the heavens would fall, do you, Mr. George?

MR. GEORGE: I'm sure the heavens wouldn't fall.

JUDGE GOLDBERG: I wouldn't want that to happen.

(REPORTER'S NOTE: The Court here confer out of the hearing of the court reporter.)

JUDGE GOLDBERG: We are entering an Order revoking the postponement for the filing date. We did a quicker job than we thought we would and, once again, thank you very, very much for your cooperation.

MR. YORK: Your Honor, if I might ask one thing. The question was asked by Your Honor, I believe, in one of my cross-examinations about whether or not the lack of any residency requirements ---.

JUDGE GOLDBERG: Oh, the Order will take care of the fact that you need not be a resident of the district for this election, just as the Order in the original case provided. The opinion also -- I'll tell you this, because the attorneys' fees have been mentioned. The majority opinion severs the issue of attorneys' fees for separate consideration at a later date under Rule 52.

MR KORBEL: Your Honor, I have one further question with respect to residence. In a county like El Paso where literally one-fifth of the county was removed and put in with a couple of smaller counties, there possibly might be some people living in that part of El Paso County which

was not originally included in the multi-member district and when they were moved into the district, had they known single-member district existed, if the Court would allow ---.

JUDGE GOLDBERG: I think the Court here has involved itself in an election machinery which, of course, we hesitate to do, but we feel we have to do it, and the least tinkering we do, the better. And it seems to me to keep the residence requirements to two years is not too onerous on anybody.

MR. KORBEL: Thank you, Your Honor.

JUDGE GOLDBERG: Now, does anybody else want to say anything before we adjourn?

Thank you again, and the Court is adjourned.

(REPORTER'S NOTE: The Court then, at 3:30 o'clock, P.M., January 28, 1974, adjourned.)

* *

UNITED STATES DISTRICT COURT | OFFICIAL REPORTER'S
| CERTIFICATE
EASTERN DISTRICT OF TEXAS |

I, DOROTHY U. DAUGHERTY, Official Court Reporter for the United States District Court for the Eastern District of Texas, do hereby certify that the above and foregoing 237 pages of typewriting contain a true, correct and complete transcript of the proceedings had in the above-styled and numbered civil causes.

WITNESS my Official signature in the City of Tyler, Texas, on this the 19th day of April, 1974.

DOROTHY U. DAUGHERTY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FRANK ESCALANTE, ET AL
VS. No. A-73-CA-115
MARK WHITE, ET AL

ORAL DEPOSITION
OF
MR. JOYCE WENDELL SIFFORD

ORAL ANSWERS AND DEPOSITION of the witness, JOYCE WENDELL SIFFORD, in answer to questions propounded to him in the above entitled and numbered cause, taken by the Plaintiffs before Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, in the Law Offices of Don Gladden, 702 Burk Burnett Building, Fort Worth, Texas, on November 6, 1973, pursuant to the hereinafter set out Agreement of counsel:

APPEARANCES

DON GLADDEN, ESQ.
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REPUBLICAN LEGAL COMMITTEE
& TARRANT COUNTY REPUBLICAN
REDISTRICTING COMMITTEE

STIPULATION

IT IS STIPULATED AND AGREED by the parties to the above entitled and numbered cause, through their attorneys appearing herein, that the Oral Deposition of the within named witness may be taken at this time before Gaylord Sturgess, Official Court Reporter, United States District Court for the Northern District of Texas, and a Notary Public in and for Tarrant County, Texas.

IT IS FURTHER STIPULATED AND AGREED that all formalities with reference to the taking and returning of said deposition are hereby waived except as to form of questions or responsiveness of answers; and that the witness may return and sign his deposition before any qualified Notary Public of the State of Texas.

IT IS FURTHER STIPULATED AND AGREED that the questions and answers so propounded and given, together with all other proceedings had, when transcribed by the Court Reporter, may be used in either or all of the cases pending herein by either party hereto, subject to such objections as could be made if the witness were on the stand testifying in person, without the necessity of filing written objections to any questions or answer, and without the necessity of making objections at the time of taking said deposition.

MR. JOYCE WENDELL SIFFORD,

called by the Plaintiffs, having first been duly sworn to testify the truth, the whole truth and nothing but the truth, testifies as follows, to-wit:

EXAMINATION

BY MR. GLADDEN:

Q. State you name, please.

A. Joyce Wendell Sifford.

Q. Mr. Sifford, I'll ask you if you're familiar with the deposition-taking process?

A. Yes.

Q. You understand, of course, that I'm going to ask a series of questions,that you'll answer them and that whatever your answers are may be used in the trial of this case and may be read into the record for all purposes just as though you were present at the trial of the case and giving testimony in open court?

A. I understand.

Q. All right. Mr. Sifford, in the event that I ask any question that there's any question as to whether you understand the question or not, please ask me to rephrase the question or tell me what it is that you don't understand about the question and I'll attempt to redirect it in a manner that you do understand it.

A. All right.

Q. All right. Where do you live, Mr. Sifford?

A. I live at 532 Norwood Drive in Hurst, Texas.

Q. All right. In connection with your name, Joyce Wendell, you're commonly known in the community as J. W. Sifford, is that right?

A. Correct.

MR. YORK: By your choice, I imagine.

Q. When did you first move to Tarrant County area?

A. In 1947.

Q. All right. I'll ask you what had you been doing immediately prior and where did you live immediately prior to your moving to Fort Worth or the Fort Worth area?

A. Well, I had just came out of the Navy, and my home was in East Texas in Henderson County, and after I got out of the Navy I went to Dallas Aviation School and got -- where I got my license, A&E Aircraft Mechanic license, and after finishing that I came to Fort Worth and went to work for what is now General Dynamics; it was then Convair.

Q. All right. In that connection, what capacity, what type of work did you do at Convair?

A. I was aircraft assembler.

Q. All right. I'll ask you how long were you employed at General Dynamics or Convair?

A. Roughly four years.

Q. Then what did you do?

A. I went to work for American Airlines as an aircraft mechanic.

Q. All right. During the time that you worked for General Dynamics, I'll ask you whether or not you were a member of any union or labor organization?

A. Yes. I was a member of the International Association of Machinists which was affiliated with the AF of L, American Federation of Labor.

Q. In that connection, were you active politically --

A. No.

Q. -- in the union?

A. No, not at that time.

Q. All right. After you left General Dynamics and went to work for American Airlines, I'll ask you whether or not you became a member of any labor union or organization?

A. Yes. I became a member of the Transport Workers Union which was CIO union.

Q. All right. In that connection, did the Transport Workers Union have a contract with American Airlines --

A. Yes.

Q. -- relative to --

A. They did and still do.

Q. All right. And they represented the workers in the job classification that you were employed in, is that correct?

A. Correct.

Q. All right. I'll ask you whether or not you got active in labor union activities after you went to work for American Airlines?

A. Yeah, shortly after, after I went to work for American Airlines.

Q. All right. In that connection I'll ask you whether or not you were elected by your local to any particular positions or jobs?

A. Well, the first position I was made a delegate to the CIO Industrial Union Council which was an organization formed of all the CIO local unions in the county.

Q. All right. In that connection, can you tell us about what year you became a delegate to the Industrial Union Council?

A. It was around 1956.

Q. All right. What was the purpose of --

A. Sometime in the middle 50's.

Q. What was the purpose of the Industrial Union Council?

A. Well, it was to further anything that's good for organized labor. This would include civic enterprises, public relations, community services in a legislative and, of course, political.

Q. All right. I'll ask you at the time that you became a delegate to the Industrial Union Council, had the

AF of L and CIO merged at that point?

A. No, they did not. There was a corresponding organization of the AF of L in the county at the time known as the Fort Worth Trades Assembly.

Q. And did they also have an organization that concerned themselves with --

A. Yes.

Q. -- political activities?

A. Similiar. There was a political -- each organization had a separate political branch. It was PAC-CIO, the Political Action Committee.

The AF of L had, I believe, what was known as Labors League for Political Education, something like that. These were political branches.

Q. So the Industrial Union Council was composed of representatives from the various local union, is that correct?

A. Yes.

Q. And in turn there was also a Political Action Committee.

How was it composed? Did it come out of --

A. Yes. It was a committee of whole, so to speak, of the -- the same delegates who where delegates to the Industrial Council were also delegates to the PAC.

Q. All right. So in the 50's or in about 1956, you wore two hats in terms of delegation from your local union,

that was a delegate to the Industrial Union Council and also as a delegate to the Political Action Committee of the CIO?

A. Right.

Q. All right. I'll ask you if you participated during that period of time in any kind of a canidate selection or slate-making procedure relative to any kind of political races?

A. Yes. The first such meeting, I recall attending, was a joint meeting with the AF of L group wherein as I recall there wasn't any screening of candidates but we discussed the candidates for the State Legislature as well as for other offices at the time.

Q. By screening of candidates, do you mean actual appearances?

A. Interviews and things like that there.

Q. All right.

A. As I -- you know, this was my first association with this political process. I was learning politically then and so I don't recall exactly, but I assume that various leaders had had private conversations with the various candidates for office and these were -- this was what led to the meeting, the joint meeting, was the two groups discussing who we should support, feeling that the two groups both supporting the candidate would, of course, be stronger.

Q. In that connection, I'll ask you whether or not this was a meeting of the full Industrial Union Council and the

full Trades Assembly or was it a select committee of representatives of each?

A. It was a select committee. It wasn't the full body.

Q. All right. And how were you chosen to serve on that committee, do you recall?

A. I was appointed by the president of the Industrial Union Council.

Q. All right. Did the organization subsequently support candidates that were --

A. Yes. This -- we in turn went back to the full body of the Industrial Union Council as the AF of L group did to theirs, and made recommendations of what the decision that was reached at this committee, and this recommendation was adopted by the full body.

Q. All right.

A. And we did support a group of candidates.

Q. All right. Now, in that connection, I'll ask you whether or not this meeting took place prior to the Democtatic Primary?

A. Yes.

Q. All right.

A. The first Democratic Primary.

Q. All right. And I'll ask you whether or not your concern and the selection process took into consideration any candidates other than people in the Democratic Primary in '56?

A. Candidates other than in the Democratic Primary?

Q. Yes.

A. No, not to my knowledge.

Q. So the slate or the meeting with AF of L was to decide which Democratic candidates you would support, is that a fair statement?

A. Right, oh, yes.

Q. As a matter of fact, do you recall whether or not there were any candidates on the Republican ticket?

A. I don't believe there was.

Q. In 1956, the Republican party probably didn't even have a primary, did it?

A. I don't believe so.

Q. All right. Now then, did you participate after the submission back to the Industrial Union Council and the adoption of the recommendations, did you participate in the political activities of your organization --

A. Yes.

Q. -- as far as candidates for public office are concerned in 1956?

A. Yes. We worked trying to get them and people we had voted to support, we tried to help get them elected.

Q. All right. What did the organization and what did your people do as to these candidates that you had recommended?

A. We had -- we had some funds that we give them.

These were funds that were raised through voluntary donation of the members. At that time it was, you know -- it's now become C.O.P.E. I think everyone is familiar with C.O.P.E. It was PAC, (SPELLING) P-A-C then.

Everybody remembers CIO-PAC because of Allen Shivers used to run against the CIO-PAC. And we had money which was voluntarily contributed by Union members that we did donate; it wasn't very much.

Q. All right. Did you --

A. We probably give more in time and effort. We spent a lot of time -- the various members of the local union spent a lot of time working for the candidates, nailing up signs, handing out material, the various things that -- the kind of leg-work that's necessary to get a political candidate elected.

Q. All right. In addition to that, that particular year somebody furnished your select candidates a hotel room from which to run, did they not?

A. Yes, yes, they did. There was a hotel room in the Texas Hotel, I believe.

Q. All right. Now then, in addition to that did you take any steps to acquaint your membership or the memberships of the CIO --

A. Yes.

Q. -- about your endorsement?

A. We made up what is commonly known as a slate card

and a slate -- small card that had the list of the candidates and the offices they were running for that we were supporting, and we tried to get these in the hands of all of our members.

Q. Do you recall how those were distributed in 1956?

A. In 1956 I'm sure that they were distributed individually hand-to-hand, each -- every local union received a copy of supply of the cards, and they in turn were to -- got them to their members.

It was done by hand and it was done -- at that time it was -- the labor endorsement was so unpopular we tried to avoid letting the news media know who we were supporting because it would hurt our candidates.

And so we purposely did it in such a manner -- tried to do it in such a manner where that it wouldn't become widely known --

Q. All right.

A. -- because we didn't want to hurt the people we were supporting.

Q. All right. I'll ask you if you participated in this same procedure in 1958?

A. Yes.

Q. And as a matter of fact --

A. Every year since then.

Q. In the fall of 1956, the State AF of L and CIO merged into one body, did they not?

A. Well, yeah. The State AF of L -- you know, it started out with the National AF of L-CIO merging, and then the State AF of L-CIO merged, and then the County AF of L-CIO merged.

Q. All right. Actually, the National AF of L-CIO merged in early 1956, sometime in the fall of '56 the State and almost simultaneously --

A. I'm not sure of the date but I know this was the sequence.

Q. After the primary?

A. Yes, it was after the primary.

Q. All right. As far as the local merger of the CIO and the AF of L, it was done sometime subsequent to the Democratic Primary in 1956?

A. Yes.

Q. All right. And out of that was there a body created to be substituted for the Industrial Union Council --

A. Yeah.

Q. -- and the Trades Assembly?

A. This was the Tarrant County Central Labor Council, AF of L-CIO, the full title.

Q. All right. And since 1956, the collective or the combined labor organizations in Tarrant County have identified themselves county-wide as the Tarrant County Central Labor Council, is that correct?

A. Correct.

Q. Now there have been instances since then where some local unions failed to affiliate --

A. Uh-huh.

Q. -- or some national unions?

A. Various ones have been in and out and some are out now and some are in that were out and so on.

Q. All right. That's true on a national, state and local basis?

A. Yes.

Q. Okay. But following the merger and the creation of the Tarrant County Central Labor Council, I'll ask you whether or not you have been a delegate to that Council and as such participated in the slate-making process every election year since 1956?

A. Yes, every year since then.

Q. All right. In the years 1958 through the current time, has the slate-making procedure been generally the same?

A. Generally. Sometime along the way -- and I can't really say exactly when it happened, but we went to what I had referred to breifly awhile ago what we call a screening procedure where we invite all the candidates to come before a committee appointed by the president of the Central Labor Council. And after listening, interviewing all the candidates, this screening committee then made recommendations to the full

body, and the full body then passed on what the -- generally, they would accept the recommendation of the screening committee. They didn't have to and I don't believe they always did, but generally they did.

Q. All right. I believe they always did probably in the House of Representatives so far as you know?

A. Yes, as fas as I know.

Q. Might have had a difference on a Senate race of two once in awhile?

A. Yeah, Senate race or two and County Commissioners.

Q. All right. By House of Representatives, I'm talking about the State House of Representatives.

A. Uh-huh.

Q. All right. Directing your attention to 1961, I'll ask you to tell the Court whether or not you were elected president of the Tarrant County Central Labor Council in that year?

A. Yes, I was.

Q. All right. And I'll ask you if you, in 1961, had occasion to participate in the slate-making procedure for the election year 1962?

A. Yes. This was the year that a group from the Tarrant County Central Labor Council and from the Machinists Non-Partisan -- Internaional Association of Machinists this is, Non-Partisan League who were not affiliated with

the Central Labor Council at that time, met with a group of leaders, business-type leaders in the Democratic Party, and not -- we didn't make a formal coalition, but we generally agreed on the people who were running for the House of Representatives at that time, more or less based on -- there were certain candidates who were in State Legislature that we wanted left in and there were certain that they wanted left in, and we were trying to come to a meeting of the minds, so to speak, so that we wouldn't be out there fighting one another.

And we kind of worked it out so that even though we were -- wouldn't necessarily all be supporting the same candidates in certain races, they didin't put in any candidates against the people we were real fond of and vice versa with them.

Q. Would you tell the Court --

A. It so happened that we worked it out where there were six or seven races. There was one race -- it was an open race and everybody just kind of split up in it.

I think there was three people from organized labor even in it and several business types running, and this race -- but of the six that we generally agreed on, the six people that we were generally for was elected.

Q. All right. In that connection, again we're talking about the Democratic Primary, are we not?

A. Yes, this is in the Democratic Primary.

Q. And that was in 1962?

A. Yes.

Q. And this meeting took place in advance of the Democratic Primary, is that correct?

A. Uh-huh, yes.

Q. All right. Would you tell the Court some of the people -- you were present at this meeting, were you not?

A. Yes, I was present at the meeting. I was president of the Central Labor Council at the time.

Q. Would you tell the Court some of the other people?

A. Some of the people were Scott Sayers who was the Tarrant County Democratic Chairman at the time and later on became assistant to Governor Connally; Garrett Morris, who was the head of the Morris Plan Insurance Company at the time and later on became Highway Commissioner and at the present time I believe is Welfare Commissioner; Hunter McLain, who was in the insurance business and later on became State Commissioner of Insurance under John Connally; Bill Brown, who's a well-known attorney here in town; and maybe two or three others, I can't recall.

Q. All right.

A. Those were some of the people and those were some of the better-known members of the Democratic Party at the time.

Q. All right. In that connection, is it my understanding that while you did not endorse candidates in that arrangement that you agreed not to field candidates against

selected people, is that correct?

A. Yes, uh-huh; based on the fact that some of the people that they felt strongly about were in our opinion not all that bad. And they in turn felt that, you know, people who had a good voting record for organized labor, they felt like that they weren't some people that they couldn't live with, that they weren't really all that bad.

And so, based on that fact and to keep peace in the Democratic Party, we did have an unofficial agreement that did stand up so fas as I know.

Q. Prior to that time --

A. At least it stood up enough that we got six people elected out of seven.

Q. All right. Prior to that time, I'll ask you whether or not you were aware of the activity or that activities had been taking place in the business community similar to the activities that took place in the labor community relative to the selection process?

A. Yes, I was aware of it.

Q. Will you tell the Court how you were aware of it or what facts you know in connection with those type activities in the business community?

A. Well, I guess you could say I became aware out of just listening to people, candidates and others involved in politics talk. It was always known -- well-known throughout

the -- among all those people who were knowledgeable politically in this county, who Seventh Street, so to speak, was going to support, even though there never was an official organization like, you know, like some cities have where a group of businessmen get together and form a Citizens Charter Council in Dallas, for instance, there was never any formal organization here.

But, you know, it functioned well enough that everybody always knew -- I say everybody, everybody politically knowledgeable was always well aware of who the business community within the Democratic Party was going to support. And since that was the only game in town, the Democratic Primary, well, this was everybody.

Q. Were there certain precincts that the business community had particular influence on that you could check the results of those votes in that precinct?

A. Yeah. We never could figure out how that they kept such a tight rein on their people, but these were precincts where the medium income was always very high. The so-called silk stocking districts. They always voted real strong, pretty well a straight ticket of whoever the business people were supporting at the time.

Q. All right. In that connection, Mr. Sifford, I'll ask you whether or not you are an official of the Democratic Party in Tarrant County?

A. Yes. I'm a member of the Executive Committee,

Precinct Chairman, have been ever since 1962.

Q. All right. And in that connection, you've been active in Democratic Party affairs, is that correct?

A. Yes. I've attended nearly all the State Conventions and all the County Conventions and District Conventions, besides being a member of the Executive Committee --

Q. All right.

A. -- through the years.

Q. All right. Other than in 1962, did you have occasion or are you aware of any instance where the slate-making procedure of the labor community made any kind of arrangements with the conservative community or the business community relative to supporting candidates?

A. No, I don't know of any such. It may have been occasions of maybe some individuals or groups. There's always, you know, certain groups would always work together in politics where there was no --

Q. In addition to the business groups, of course, there are people who have special legislative interests such as car dealers Associations and beer people?

A. Car dealers and beer people, REA, and Osteopaths and MD's, and you name it.

Q. All right. And each of those people tried to --

A. Everybody has got a special interest, except the people.

Q. All right. And each of those people generally align themselves with one of the two slate-making processes do they not?

A. Generally, yes.

Q. In instances where the Labor Council would endorse a slate of candidates, the REA people generally voted the Labor Council's endorsements, is that correct?

A. Right, right.

Q. And because of the peculiar alignment, beer and truck people always supported the same candidates because the same fellow picked those, is that correct?

A. Yes.

Q. But he would sometimes shift from one side to the other?

A. Uh-huh, right.

Q. All right. So with the exception of 1962, there have been two basic slate-making groups, is that a fair statement?

A. Yeah, yeah. You've got the business and labor.

Q. All right.

A. Of course, along with labor generally was minorities and liberals.

Q. All right. In that connection, going back to 1956, there was no, that you were aware of -- or I'll ask you whether or not were you aware of any political organizations or groups

of people in the black and brown community in Tarrant County in an organized manner?

A. I wasn't aware of any officially organized group, but we were always aware and we always -- when we were -- one of the considerations in selecting candidates was always whether or not a candidate would appeal to the black community especially; was back then the Mexican-American community wasn't too large. But we always knew that we had to have the black vote and we always counted on it for the candidate that we supported.

Q. All right. And in that connection, I'll ask you whether or not since you have been aware of the political activity in Tarrant County, up until 1968 had there ever been a black person seek the Democratic nomination for the Texas Legislature?

A. Not to my knowledge. Maybe you might go back to the -- right after the Civil War or something, but --

Q. All right. You're familiar with the history of the Democratic Party here in Tarrant County, are you not, generally?

A. Yeah.

Q. And so far as you can recall and from the historical knowledge that you have, there's never been --

A. I don't ever know of one up until then.

Q. All right. I'll ask you from up to 1968, for the

period of time prior to 1968, whether or not there had ever been a candidate for the Legislature, either in the general election as an independent or Republican or -- that was black?

A. To my knowledge, there was none.

Q. All right. I'll ask you what steps, or did you in the slate-making procedure ever assume the responsibility or your organization ever assume the responsibility of candidate recruitment?

A. Yes.

Q. Can you tell us when that first possibly began and the steps that you took?

A. My first knowledge of that was when leaders of organized labor -- I didn't myself because that was the time that I was just becoming active. But I was well aware of the fact that leaders of organized labor along with some other people were responsible in recruiting Jim Wright to run against Wingate Lucus for Congress.

Wingate Lucus, the incumbent at the time, was very infamous for being anti-labor, and I must say the members, the leaders of organized labor, helped recruit Jim Wright and he did defeat Wingate Lucus and became Congressman.

Q. All right. After that and following that -- that was about 1952 or '54, is that correct?

A. Yeah, I believe, something like that.

Q. And after your election to the Central Labor

Council, I'll ask you whether or not you participated in the recruitment procedure?

A. Yes. I definitely know that as of the time I became president, this was considered to be one of my duties as president of Central Labor Council and still is to this day, is to help recruit candidates for public office.

Q. All right. What is the purpose of, or the test or the measure or the direction that you have relative to who you recruit and what direction you send them and the qualifications for their -- for the recruitment and why you need them?

A. Well, it's very simple. We're interested in passing legislation, we're interested in making changes, and to do that you have to -- you have to win races to pass legislation.

And we looked for people who were -- had the same political philosophy as we did who we felt would vote generally -- although we never expected anybody to be a hundred percent with us, we did look for people that we thought would be with us the majority of the time, and that would win.

Q. All right. And did you recruit people to run against particular officeholders who may or may not be friendly towards organized labor?

A. Oh, yes, the old Samuel Gomper's adage; help your friends and defeat your enemies.

Q. All right.

A. That's what the old fellow said.

Q. All right. Now, directing your attention to 1958, in 1958 there was a black candidate that ran for the Democratic Primary, is that correct?

A. In '58?

Q. Yes. No, 1968, I'm sorry.

A. '68. You did say '58.

Q. All right.

A. In '68, yes, there was.

Q. And would you tell the Court his name?

A. Charles Grays.

Q. All right. And I'll ask you whether or not Mr. Grays was a member of organized labor?

A. Yes, he was a member of the Communications Workers of America.

Q. All right. I'll ask you whether or not you were still president of the Central Labor Council at that time?

A. No, I wasn't.

Q. All right. I'll ask you whether or not you were still a delegate to the Central Labor Council?

A. Yes. I was a delegate and I was on the screening committee to screen candidates to make recommendations that year.

Q. All right. I'll ask you whether or not the Central Labor Council made an endorsement of a slate of candidates in 1968?

A. Yes.

Q. I'll ask you whether or not Charles Gray was on that slate?

A. Yes, he was.

Q. All right. In that connection, in 1968 were all of the labor organizations in Tarrant County affiliated with Tarrant County Central Labor Council?

A. No, they weren't.

Q. The UAW and Teamsters were not affiliated, is that correct?

A. At that time part of the UAW was and part wasn't. And the UAW had the separate -- that was kind of an overlap, really. It was kind of confusing to the locals. There was a couple of the UAW locals who were still in the Labor Council, and they had the unfortunate circumstance of being a part of the UAW organization who fielded one slate of candidates and they were also part of the Central Labor Council who had another slate of candidates.

When I say another slate of candidates, I don't mean entirely different, but there were some deviations on the two slates.

Q. Basically, in the House of Representatives races, was the slate the same?

A. I believe so.

Q. All right. Other than the UAW, the Teamsters, of

course, were not affiliated in '68?

A. No. The Teamsters were not a part of the AF of L-CIO at that time. They dropped out.

Q. All right. In the selection process, did you take into consideration the fact that Mr. Grays was black?

A. Yes.

Q. Now, at that point had you arrived at the stage where you did an actual candidate interview procedure?

A. Yes, yes, we did.

Q. All right. And I assume that after all the candidates in a particular race have been interviewed and considered, there was a meeting of your committee, is that correct?

A. Yes.

Q. Now, how was that committee selected?

A. It was appointed by the president of the Central Labor Council.

Q. All right. I'll ask you if you recall any conversation with respect to Charles Grays' possibility of being placed on the slate and whether he should be put on the slate or should not?

A. Well, we had -- certainly we had this kind of conversation in the screening committee. Is that what you're referring to?

Q. Okay. Yes. Do you recall what the basis was upon placing him on there?

A. Oh, the basis was he was running against an incumbent, Bud Sherman, in particular, who had a very anti-labor voting record, and was also a very strong candidate, former TV star who was very popular even though he was very anti-labor, and we didn't think we could beat him with any candidate, and the only person that would run against him was Charles Grays, a black; like you say, the first black that I know that ran for the Legislature in this county.

And in the conversation we told Mr. Grays that we would support him if he would run against Bud Sherman because we thought he ought to have an opponent, even though we did not feel that Charles Grays could, running at large, have a ghost of a chance of winning it.

Q. Now in connection with a ghost of a chance of winning, was this discussed in the termination?

A. Yes, it was.

Q. And you deviated from your usual procedure of selecting candidates on the basis of ability to win?

A. Yes, we deviated. Because, you know, there's always exceptions to every rule, and we had, like I say, we wanted an opponent, we wanted Bud Sherman to have an opponent.

Q. Did you also discuss whether or not this would attract additional black voter turn-out?

A. Yes , yes, this is true. By that time the black community had become a very recognizable and a very positive

force in Tarrant County politics, and we felt like having a black candidate would help the turn-out in the black community.

We thought that we would -- it would help the other candidates on our slate in the black community to have a black person on the slate with them.

Q. In that connection, did you have any expectation of electing Charles Grays?

A. No, none at all.

Q. And I'll ask you to state whether or not that was in any manner a consideration for his being placed upon the slate, that of his probability of winning?

A. No, no. We conceded the fact that he couldn't win.

Q. All right.

A. But there was, as I have said, there was definite reasons that we wanted him on there.

Q. All right. Now, at the time and during all the time that you've testified to, the Legislative District of Tarrant County was composed of seven members who were elected at large throughout the entire county, is that not correct?

A. Yes, that's right.

Q. All right. And that remained the same in terms of geographic situation of the District up until 1972?

A. Yes. Now, that was when District 42 was created which took part of the county.

Q. All right. Up until 1972 when we talk about the

Legislature of Tarrant County, we're talking about a District composed of the entire county which originally seven members during the earlier members we're talking about were elected at large county-wide --

A. Well, originally six in my -- started out with six, I believe, when I first got active.

Q. All right.

A. I don't remember what year but somewhere along there we got the seventh one.

Q. All right. If you got active along about 1952 or '54, you had six and then in '56 you had seven?

A. Yeah.

Q. And that remained seven probably up until following the 1960 census -- no, 1970 census at which time you got nine, is that correct?

A. I believe we went to eight first.

Q. Okay.

A. I wouldn't --

Q. In any event, it was a county-wide District until '72?

A. Right.

Q. All right. Mr Grays did not win the Democratic Primary, did he not?

A. No. I think he got 20,000 votes, which -- and I don't recall; a very small amount.

Q. All right. Generally speaking, is it a fair statement to say that he got the block black vote, a high percentage in the black community, and a small percentage in the white community.

A. Yes. I'd have to look at the record, You know, they're available, if necessary, but --

Q. Generally speaking?

A. Generally speaking, I beleive that he did not get a high vote and very little elsewhere, although he did get some but he didn't get a great deal as I recall outside of the black community.

Q. All right. In 1970, which was the next election year, I'll ask you whether or not there were any black candidates file for a place on the ballot in the Democratic Primary?

A. In 1970, no.

Q. All right. I'll ask you if you're familiar with or know anyone who was black who considered and discussed the possibility of seeking the Democratic nomination during '69 or '70?

A. Yes, there was. There was one -- a leader of organized labor by the name of Albert Mitchell, who was a member of the International Association of Machinists, had been active politically both in organized labor and in the black community.

He discussed, as I understand it, with some of the other -- some of the leaders of the black community and I

know he discussed it with me, about the possibility of him running for State Representative.

Q. In that connection, was he discussing it with you because you were a delegate to the Labor Council --

A. Yes.

Q. -- participating in the --

A. Well, even more so, he was discussing it because I was president of the Labor Council and he suspected that I might have a little influence on who the Labor Council would be supporting for office the next year, and he was looking for encouragement.

Q. All right. Did he get any engouragement from you?

A. No, no, he did not. I told him very honestly that I tought he was a very intelligent young man, had a lot of ability and a lot of possibility, could have a good career, but to run for the Legislature and do very badly would, I felt, hurt his career within organized labor or within the black community, whatever he wanted to pursue, that to run and make a very bad showing would take away some of his believability, and I thought would cause people maybe to look down on him, and this was one of the reasons.

And another reason was the very practical reason that it would have caused us some pain had a member of organized labor been running, and we refused to support him. And this is possibly what we would have had to have done.

Q. All right. In that connection, did Mr. Mitchell run?

A. No, he didn't run.

Q. All right. Do you know where he is at the present time?

A. No, I don't. Now, he did get a job as International Representative with the Union prior to the election, and that could be one of the reasons why he didn't run but he didn't run.

Q. All right. Did any other blacks approach you in 1970 relative to the prospects of running?

A. No; not in 1970.

Q. All right. Did you follow basically the same slate-making process in 1970 as you had in the prior years.

A. Yes. We sought out the people.

Q. Did you apply the same tests and standards in 1970 in terms of selection endorsement process as you had -- as you previously testified to?

A. Yes.

Q. All right. In this connection, following endorsement or support, recommendation of a candidate to your membership, is there any formula or hard and fast rule in terms of degree and amount of support that you give to a candidate?

A. No. There's no definite formula. We always approached it from a very practical view. What money we had,

we didn't divide it up equally among the candidates. We, in the terms of money and work, we always concentrated more on the candidates who had the best chance to win than we did those that we felt had lesser chance. We didn't have enough money to spend as much as we wanted to on every candidate, and we followed a priority-type.

Q. All right. I'll ask you whether or not you had a priority-type or followed a priority-type in 1968?

A. Yes; we always did.

Q. All right. I'll ask you whether or not those priorities were taken into consideration whenever there was money and energy and materials to be divided wherein Grays' compaign was to be considered?

A. Yes. That was taken into consideration and there were other candidates who we were supporting that we donated more money to.

Q. All right. And this was --

A. And more of our resources, too, than we did to Mr. Grays.

Q. All right. And why was that that you donated that?

A. Well, because we concentrated, as I said, we concentrated on the races that we felt that we had a good change of winning.

Q. All right.

A. And didn't waste any -- a whole lot of time on

races that we felt we didn't have any chance.

Q. All right. Now then, in 1972, were you still a delegate to the Central Labor Council?

A. Yes.

Q. All right.

A. I was president.

Q. All right. Actually, from 1961 up until recently you've been , I guess, president more than you've not been president, is that correct?

A. Yes, that's right.

Q. There were instances during that period of time that you were not president?

A. No.

Q. But you were back president in 1971 and '72?

A. Uh-huh.

Q. All right, I'll ask you whether or not you had occasion to discuss with any blacks the possibility of their seeking the endorsement and support of the Central Labor Council and your responsibility as a member of the Democratic Party?

A. Yes. A gentleman by the name of R. C. Johnson who is the head of the Precinct Workers Council which is a black political organization which we worked with very closely and who I've known for many years, is a Precinct Chairman, approached me, as I understand he approached other people in and out of organized labor, and said that he would like to have

organized labor, the Central Labor Council -- this gentleman was a member of the UAW, the Auto Workers, who was not a part -- who was out of the AF of L-CIO and not a part of the Central Labor Council.

Q. All right.

A. He discussed with me what I thought about him running for State Representative, and I told him for two reasons that I discouraged him. One of the reasons was that he was a personal friend and I thought that he would do badly, he would look bad, that was one of the things.

As a friend, I advised him not to run, as I would advise anybody to run regardless of their color or whatever they are, if I felt that -- and I have through the years, I have had various and sundry people, close friends and not, who have come to me and discussed the possibility of running for office, and I've always tried to be as open and as candid as I can in my own opinion and tell them what I think. Of course, I felt that that's what they wanted.

And I told Mr. Johnson at the time that I thought that he would do badly and it would make him look bad and that that was one thing, and then there just was no way, in my opinion, that a black person could be elected county-wide -- well, district-wide, what we had then.

And I didn't think that I could sell the delegates to the Labor Council to support, especially in the race that he

was -- there was others who were in the race that we thought had an excellent chance to win, and I discouraged him as much as I could.

Q. As a matter of fact, you didn't offer him your permanent support in the Council, is that correct?

A. No. In fact, I told him that I didn't think he could get labor's endorsement and that I just couldn't support him because I didn't think it was practical and I didn't want to disillusion him. I wanted him to know exactly how things looked to me.

Q. In that connection, you had already had some conversation with a white canidate for the Legislative race that he was talking about, is that correct?

A. Yes, yes, I had. And it so happened we did support that candidate and that candidate won.

Q. As a matter of fact, he was by here this morning, wasn't he?

A. He was here this morning, yes.

Q. I'll ask you whether or not that candidate voted generally along labor lines after you elected him?

A. No, he didn't.

Q. Okay.

A. I owe R. C. Johnson an apology there, anyway.

Q. All right. Now then, in 1972, in the slate-making procedure, by then there had been several organizations,

several traditionally liberal organizations develop in the community, had there not?

A. Yes. This -- in 1972 there were five organizations who got together and screened canidates together. Through the years these organizations had screened candidates and made recommendations separately, and generally we -- we had unofficial meetings generally, the leaderships of the various groups, and tried to come up with the same slate of candidates for strength.

It had never seemed to completely work out, although we were generally together there were deviations almost always that has hurt us.

And so in 1972 we decided to do something different and that is all five organizations get together and have a joint screening committee where we all had committees that would get together and talk to the candidates together. These five organizations were three labor groups, the Central Labor Council, The UAW, the Teamsters, the Precinct Workers Council which was the political organization of the black community composed and built around, I would say, not composed but built around the elected black Democratic Party Precinct Chairman in the county; then the political association of the Spanish-speaking organization known as PASO which was formed in 1960 first as "Via Kennedy ", an organization of Chicanos, Mexican-Americans, to support at that time John F. Kennedy, and after

that they stayed together and took and title of PASO.

So those five groups all had screening committees and we all met together and talked to the candidates together.

The ground rules were, when we decided to do this, was that no organization would be committed to follow the recommendations of the group but that we would make every effort we could to come out of this meeting with a unified slate of candidates; and we did.

Q. All right. Now, in that connection, this procedure that you've just described as done in 1972, is that correct?

A. Yes.

Q. All right. Was this the first time that there had been a collective meeting of these five organizations?

A. Yes.

Q. For screening purposes?

A. Yeah.

Q. All right. Now, when you made reference to UAW, you're talking about the United Auto Workers?

A. United Auto Workers, yes, sir.

Q. By 1972, the United Auto Workers had completely pulled out of the Central Labor Council, had they not?

A. Yes. They were separate nationally. They could not belong if they wanted to because they had pulled out ot the national organization.

Q. All right. And likewise the Teamsters, of course,

were --

A. Uh-huh.

Q. -- had severed their relationship several years prior thereto with each step of the organization?

A. They were asked to leave, you might say.

Q. I remember that.

A. They were kicked out, really.

Q. All right. I'll ask you whether or not you has occasion, other than with R. C. Johnson, to talk to any blacks prior to the 1972 elections as to whether or not you would support them for the Legislature?

A. No.

Q. All right. I'll ask you whether or not you ever had any conversation with either Mr. Bobby Webber or Mr. James Gaskin relative to whether or not you'd support them for the Legislature?

A. No.

Q. In connection with the screening process and this meeting that took place in 1972, I'll ask you whether or not it was before or after the filing deadline?

A. It was after.

Q. All right. In that connection, the screening -- the formal screening process of the Labor Council in each of the prior years took place after, at least within those periods?

A. Yes. In this particular year, it was immediately

after the filing deadline.

Q. All right. Prior thereto, after you had quit just having informal meetings and started the screening process, was there ever any instance where you had a screening process in advance of the filing deadline for the Democratic Primaries?

A. Yes. I believe there have been times. It was pretty close, but with the knowledge that we would have to screen other candidates.

See, there was no way generally, there was no way that you could cover all the whole screening procedure in one meeting.

Generally, we met in the evening because people had to work in the daytimes and we would meet like at two or three, four hours at night, and it would always take several meetings to get all the screening and make discussions and make decisions.

And so at first, various times, there were meetings held prior to the filing deadline, and then after the filing deadline, well, we would go ahead and finish with the last-minute candidates who may have filed at the last minute, and there usually were several.

Q. All right. Now, in connection with at or before these screening committee sessions, because of this recruitment activity, as president of the Central Labor Council, you knew that there were even in advance of the formal screening process some delegates who had already established in their mind who

they were going to support and in turn had reached some conslusions as to who they were going to recommend and at some times with not a rubber stamp but some times there were some preconceived ideas?

A. Pretty close to it. Especially in the case of an incumbent who has a good voting record it was obvious that this person was going to be supported.

Q. All right. And as a matter of fact, when R. C. Johnson approached you prior to the filing deadline about running, there had already been some conversation and some tentative commitments made, had there not?

A. Yes, there has been; the tentative kind of commitments that we always make. We always try to improve the calibre of candidates, which is -- we hope Amendment One pases today, that might improve the calibre considerably.

It's always been a big problem. And obviously, before a person would run for an office they have to know that they're going to have some support.

So we generally would give some kind of an official -- the way I always handled it personally, I would tell a person,"I'll do everything I can to see that you get the nomination --" I mean, "the recommendation of Labor. I can't promise you because it's not a dictatorship and we have a Democratic way of doing it."

But according to what the race looks like, there

would be generally -- you could pretty well tell. In many cases there would be an incumbent who was very anti-labor and one person was all that would run against him.

Q. All right. In that connection, at the time this converstaion took place between you and R. C. Johnson, this was in advance of the filing deadline, is that correct?

A. Yes, this was in advance of the deadline. And we had discussed and actually we encouraged Charles Evans to run in Place One.

Q. All right. By "we" --

A. It was an open race, and one of the things, you know, as a practical rule of thumb in politics, if you've got a good candidate you don't put them against an incumbent if you can avoid it.

Your better candidates, unless they just particularly want to run against some individual, you encourage them to run in an open place so they'll have a better chance of winning.

Q. All right. In making your recommendations, do you also take into consideration whether or not the candidate might have a little of his own money to spend instead of yours?

A. Right. We look at all possible support the candidate might have since we really don't have a whole lot of money. And it costs quite a bit to run county-wide, and we can -- we never have and cannot finance the whole campaign, anywhere close to it. And so to have a chance to win, then, obviously

a candidate is going to have to be able to raise money somewhere other than from organized labor.

Q. All right. Now then, in 1972, I'll ask you whether or not this collective group of organizations that you've mentioned and which you did, I believe, testify that you did all agree on a complete slate of Legislative candidates, whether or not they did endorse or recommend any blacks?

A. Yes, they did.

Q. All right. Now, I mentioned Mr. Bobby Webber and Mr. James Gaskin earlier.

A. Yes.

Q. Both of those persons are Negroes, is that correct?

A. Right. We did not recommend Bobby Webber -- I mean James Gaskin. James Gaskin was running against Doyle Willis who was not an incumbent but had served for many years in the Legislature as a Senator and State Representative and generally had a good voting record with organized labor.

Besides that, he was well known among our membership, and from a practical standpoint we knew that they were going to support Doyle Willis regardless of what I said or anybody else said.

And this was true, also, of the black community, and I think it was borneout that Mr. Willis did carry all or most all of the black boxes.

Q. All right. In that connection, though, both Gaskin

and Webber were black, is that correct?

A. Yes, they were.

Q. All right. Now then, are they the only other two persons that you've ever known to seek the Democratic nomination that were black?

A. Yes.

Q. All right. Again, did you have any conversation or consideration for either Gaskin or Webber as to their probability of success?

A. No, no. In fact, and I was just explaining our position on James Gaskin, who we didn't support. I knew him personally.

Bobby Webber, until the last day of the filing deadline of 1972, I had never heard of Bobby Webber. And he had just filed, and he filed at the last minute.

And when we had our screening committee meeting, the black members of the screening committee, which we had some--we had some black labor people and then we had, of course, the representatives of the Precinct Workers Council.

We discussed with them, did they have any prior knowledge of Bobby Webber running for the State Legislature, and they did not, according to what they told us.

Q. All right. But now, in the process or the procedure whereby you made your candidate selection, I'll ask you whether or not you, in making that selection, considered whether or not

Bobby Webber could or could not win?

A. Yes. We just--in fact, there was-- it was after considerable discussion that we did elect to support. And it was by less than a unanimous vote that we finally voted to support.
The only reason that we got down to that race-- like I said when we went into this joint screening we went in to try to come out united and we got down to that race. And even though there was another candidate that we were attracted to and actually some of the black leaders were attracted to, they felt, the black people felt an obligation to support the black candidate, Bobby Webber, even though they had nothing to do with encouraging him or even discussing the race with him before he got in there.
And the decision was finally made on the basis that there was some value in having a unified slate and there was a value in -- we really owed it to the black people to support a black candidate.

Q. Did you expect Bobby Webber to win?

A. No, we did not.

Q. Did anybody in the screening committee consider whether or not he could win or not in making that selection?

A. Well, I couldn't -- I don't know what other people thought, but in my--if they thought so, well, they didn't really voice it.

Q. There wasn't any argument, "We've got to support him because he's got to win," was there?

A. No, there wasn't any argument like that. The argument was over, you know, whether or not we ought to have a black candidate on the slate, and this was a hard thing for us to argue against.

Q. All right. Following the endorsement, I assume, again in connection with support, economic and physical support, whether or not Bobby Webber's race was considered in the degrees of priority along with the other candidates that you were supporting?

A. No.

Q. It was considered, was it not?

A. It was considered, they were all considered. But I would say that he received less support both physically and financially than some of the other candidates.

Q. All right. You were supporting Charles Evans.

A. Like Chris Miller and Charles Evans, who was elected, Doyle Willis.

Q. All right. Did you again make your determination of priorities and distribution of help on the basis of probabilities of winning?

A. Yes.

Q. And did you in that connection apportion a smaller amount to the Webber race than, for instance, the Chris Miller

race and the Charles Evans race?

A. Yes.

Q. In that connection both Chris Miller and Charles Evans are white, is that correct?

A. Right.

Q. And both of them won the Democratic Primary and the general election, is that correct?

A. Right. But after very -- in the case of Charles Evans, a very close race in the Primary, hard race, expensive race.
In the case of Chris Miller, too, not only in the Primary, but in the general election.

Q. I see. The Republicans did field a candidate against Chris Miller in the general election, did they not?

A. Yes; and ran a very commendable race, I'd say.

Q. Certainly caused Ms. Miller some sleepless nights, did they not?

A. Really caused her to have to really hump and work.

Q. But in that connection, there's never been a Republican elected, is that right,--

A. Right.

Q. From the Legislature, as far as you can recall?.

A. Right. And that might have been the closest contest we've ever had in the way of State Representative, to my knowledge.

Q. All right. You are aware, are you not, that the Republican Party has on occasion fielded complete slates of candidates in Legislative races?

A. Yes.

Q. And since they've had primaries, have almost always had at least one or two candidates for the Legislature, is that correct?

A. Yeah, always.

Q. In connection with the support and endorsement of Bobby Webber, was there conversation in connection with the selection process, the fact that he economically had money of his own and could draw financial support other than that which you were able to give him or your group would have?

A. Well, we weren't aware at the time, like I said. We didn't know him, I had never heard of him at the time and I still don't know him very well.
I don't know where he got his financial support, but it became apparent after we got into the campaign that he did have considerable financial support from sources unknown to us.

Q. All right. In connection with each of these three gentlemen, I'll ask you whether or not you, by reason of your work and by reason of your association with the Democratic Party and with labor organizations, have had occasion to become acquainted with people in the black community?

A. Oh, yes.

Q. I'll ask you whether or not, other than these three people that have sought public office and the two that have been mentioned about wanting to run but being discouraged and not running, whether or not there were persons in the black community who, other than the fact that they were black, would have presented to you an attractive potentiality for seeking public office?

A. Definitely.

Q. Can you give us a name and a background of some of these people?

A. Well, Mr. Johnson or Mr. Mitchell either one would have been very attractive candidates. They were young, articulate, well liked, good personalities, good appearance; all the things that you generally look for.

Q. Other than those two and Charles Grays who we've mentioned and Bobby Webber and Jim Gaskin, are you acquainted with a young man named Richard Linton?

A. Yes.

Q. Is he black?

A. Yes.

Q. All right. Would you consider him other than being black having some potential?

A. Oh, yeah. I think he would have a good potential; because, like I say, all the measurements that I would go by

in saying what makes a good candidate being active, being articulate, attractive, energetic, all the different things it takes to make a good candidate, well, certainly Mr. Linton would qualify.

Q. All right. There are other people, also, in the black community who would fit that?

A. Oh, yeah, there are.

Q. Okay. At this point in time, I'll hand you a stack of cards and a Xerox copy of that slate of cards, and the Xerox copy has previously been identified as Plaintiffs' Escalante, et al's exhibit Nos. 18-A through 18-I, and ask you if you can identify those cards, please, sir?

A. Yes. These are various slates of candidates that have been passed out by various groups, part our group, organized labor, and in other groups. Precinct Workers Council, at one time there was an organization of three labor groups that were not part of the Central Labor Council, the Steelworkers, the UAW, and the Teamsters got together and had a slate of candidates, and these are various slates that through the years that have been handed out by--do you want--

Q. By handed --

A. -- do you want a description individually of what they are or--

Q. No. If you'll just let me kind of ask you some

questions about them.

A. Okay

Q. Now, those cards came out of your personal files, is that correct?

A. Yes, uh-huh.

Q. In that connection, you acquired those cards either in your capacity as Democratic Precinct Charman or as an officer in the Central Labor Council, is that correct?

A. Yes. Part of them, like I say, were cards that we had printed, the Central Labor Council had printed, and when, generally, we'd make a mailing. We have mailed as many as 30,000. One particular -- this is a brochure, but it's got the slate on it with a little bit more than just names. It goes into detail and describes who the people are.

Q. Just a second, just a second. In that connection, you're talking about and holding in your hand what has been identified as Exhibit No. 18-F, is that correct?

A. Correct, that's correct.

Q. All right. Would you describe that to the Court, please?

A. Well, it's the brochure that has pictures and sketches, explaining the background and stands of these various candidates who the Central Labor Council is supporting, and these were mailed, usually along with a slate card, to all the

members of organized labor that we have on our mailing list. And this list has been as many as 30,000.

Q All right. In addition to making the mailing to your membership, I'll ask you whether or not you've had occasion to, through selected precincts based upon prior voting trends and knowledge of racial concentration, make door-to-door distributions of --

A Yes, sir. Which is --

Q All right. You're holding now Plaintiff's Escalante Exhibit 18-I?

A 18-I. This is what is known as a doorknob hanger. This was the run-off the year of '72.

And with the permission of the Precinct Workers Council who didn't have the money to print these, we did print them, we paid for the printing, and assited in getting them out.

And these were hung on the doors of every home in the black precincts in the county. These were the same candidates that organized labor were supporting, this was the year we had the joint screening committee.

And through the years at various times we have used a doorknob hanger to distribute slate cards.

Always we handed them out by hand. At times the only distribution, as I said, as I can recall back to the first time, at times the only distribution was through the local

unions hand to hand.

Generally, though, we would have a mailing, and then at the same time we would furnish slate cards to all the affiliated locals so that they could hand them out by hand.

There was always people who wanted to know who -- there were always union members and people outside of organized labor that wanted to know who organized labor was supporting. And we wanted to have the cards ready to give to them when they asked us.

And every local was furnished with a supply of these cards, even though their members might have got cards mailed to them, well, maybe they lose them in the mail and they would want another one.

And we would print enough cards that there would always be some go to waste, but we wanted to be sure -- they were fairly inexpensive to have them printed once you get so many printed, anyway, and we wanted to be sure -- always wanted to be sure we had plenty.

Q All right. Now, in that connection, there was, these Exhibits 18A through I, are cards or copies of cards which were actually circulated by the various organizations and you're aware of those circulations, are you not?

A Yes.

Q And they were distributed in the manner that you've described during the years 1966 through 1972?

A Yes.

Q And in addition to those, there were other instances of slate cards that you don't have copies of --

A Yes. There were other instances and there were other ways to distribute them.

There were times that cards were mailed to the black precincts in that you would secure a list, poll list, of the voters and you could identify pretty well who they were because we knew which precincts the black people lived in. And at times mailings were made to these precincts.

Q All right. Calling your attention particularly --

A And there would be sometimes even mailings made to working class precincts because, you know, precincts are identifiable as to the type of people who live there, and through our experience we can generally tell how these people usually tended to vote and we knew which area that usually tended to support the same candidates that organized labor supported, and we would try to see that they were made knowledgeable of the fact.

Q All right. Calling your attention particularly to 1969, this is not a list of slate cards in that for 1969, the year that Grays ran. Was a similar card prepared and distributed --

A Yes.

Q -- showing the Labor Council's Legislative

candidates for that year?

A Yes.

Q And was Charles Grays' name on that slate?

A Yes, it was, yes.

Q The absence of it being an Exhibit is just you don't have one of them is that right?

A Yes. I just got these -- I didn't search real diligently. I just wanted a sample of -- I thought it would be good to have a sample of the things we -- I didn't try to get any specific ones except I got the last one, I felt that the last one probably would be pertinent, the last one, and then I just gathered up a handful of them and didn't try to get together any particular ones.

MR. GLADDEN: Okay. At this time we offer Plaintiff Escalante, et al, Exhibits Nos. 18-A through I into evidence.

MR. YORK: Don, I don't think we have any objection to them except that the copy that we have doesn't identify the thing in all cases as to whose slates they are in order to identify them as to year.

MR. GLADDEN: Okay.

MR. COLLINS: In some cases it isn't on the slate card.

MR. GLADDEN: We can develop them, I think. But I'd like to --

THE WITNESS: Do you want me to answer that?

MR. GLADDEN: Wait.

MR. COLLINS: First of all, all the years are listed in the Exhibit list.

Q (By Mr. Gladden) Okay. Let's go through Exhibit 18 beginning with Exhibit No. A, and would you, if you can, tell us whose slate card Exhibit A is?

A Okay.

Q Before that, strike that.

A I've got a list here.

Q Strike that.

In connection with the preparation and distribution of slate cards, you mentioned that on some occasions that you would write a letter or enclose a brochure along with a slate card, is that correct?

A Right, uh-huh.

Q And for that reason in some instances and particularly the early years you would not identify on the slate card itself your affiliation or association, is that correct?

A Right.

Q All right.

A Specifically for the reason if -- well now, "A", of course, identifies itself.

Q Well, just --

A All right.

Q So you would not necessarily identify on the slate card itself --

A No.

Q -- which is a palm sized card that a person could take into a voting booth, but would accompany it with a letter or an explanation or your union representative would say, "These are ours", is that correct?

A Uh-huh.

Q All right. Now then, if you will, go through Exhibit No. 18, beginning with Exhibit No. "A" and explain to the Court what each of those slate cards are.

A Well, "A" is entitled "Tarrant County Precinct Workers Council."

Q All right. That's the black organization, is that right?

A That's the black organization.

Q All right.

A "B" is --

MR. YORK: Could we get the year on each one of those?

MR. GLADDEN: Yes.

Q (By Mr. Gladden) And what year, if you know?

A I'm sorry. I could only -- I can't -- my memory is not that good. But we could, if you've got a list of the candidates for the Legislature down through the years, they can

be identified.

Q Okay.

A Like Stanley, anybody remember when Stanley Woods ran for Governor? That's one way we could find out.

Q Wait a minute. Wait a minute. Off the record.

(Off record discussion.)

Q (By Mr. Gladden) Now, Exhibit 18-A reflects the Democratic Primary for 1966, is that correct?

A Yes, that would be correct.

Q All right. And that was distributed by the Precinct Workers Council?

A Yes, Precinct Workers Council.

Q In the same manner that you've described?

A Yes.

Q All right. Exhibit "B"?

A Would be the same year.

Q For what?

A That was for the Tarrant County Central Labor Council.

Q All right.

A And we put "Vote for these good Democrats" on there. This is a procedure that we didn't change even though -- there probably was no real valid reason to maintain that, but that was a hangover from the days that I described when we first got started that we tried to keep it from the

news media. We didn't want to -- at this time --

Q Excuse me, Mr. Sifford. Let me interject.

In connection with the other side's distribution of slate cards during that period of time, I'd like to ask you whether or not they would put at the top of theirs, "Vote for the right," and underline the "right" candidate?

A Yes, yes.

Q And have a similar slate card as yours? Okay,go ahead.

A Well, we, you know -- this "vote for these good Democrats," good, most people I think back in the days of, I guess, Allen Shivers' days, you might say, knew what good Democrats were.

And at that time, working people predominently voted Democrat anyway; they don't any more, not always, but at that time they did.

And so we felt that we could accomplish the same purpose by saying "good Democrats" that we would as saying "organized labor" or "Central Labor Council", but at the same time we wouldn't be tagging our candidates.

Putting something in writing or in printing is entirely different from simply a word of mouth thing, because in a political campaign anything that's been printed or written can be taken by the enemy and circulated in enemy territory to very good effect.

And so there's a good practical reason for not -- even though we thought there was a good practical reason, even though by this time we released it to the newspapers and it was, you know, it was printed in all the papers who organized labor was supporting, the State candidates as well as local candidates.

Q All right. Now then --

A So even though we still used the tradition of saying, "Vote for these good Democrats," there probably was no real good reason to do it.

Q All right. Now then --

A Finally, you see, we've finally got down here where we did put "Tarrant County Labor Council" on our cards.

Q All right. Let's identify, if we can, we've gotten down to Exhibit No. "C".

Now, turning to 18-D and I'll ask you, that was in connection with the 1966 Democratic Primary, also. Can you tell us what that slate card was, if you know?

A "D"?

Q "D" as in dog.

A Yes. That is the UAW Steelworkers Union's endorsement.

Q All right. At that time, those three labor organizations were not affiliated with the AFL-CIO?

A Right, that's correct, they were not.

Q All right. Now then, "E" is in connection with the 1970 Democratic Primary, is that correct?

A Yes.

Q All right. And would you tell us whose slate card that is?

A That is the Tarrant County Central Labor Council. We were still using "Vote for these good Democrats."

Q I see. That was in 1970 when people knew what a good Connally Democrat was, I suppose?

A Well, there were still some people who knew. They were beginning to forget, I think, but --

Q All right. Now then, "F" was in connection with the --

A But, we're like everybody else; we're a little slow to change with the times.

Q In 1970, Exhibit"F" was also in connection with the 1970 Democratic Primary, is that correct?

A Yes, yes, uh-huh. And that's the brochure that is identified and even got my name on it, hasn't it?

Q I hadn't noticed.

That is the brochure that you mailed out along with slate cards, is that correct?

A Yeah, uh-huh.

Q All right. And you mailed that out along with the slate card identified as Plaintiff's Exhibit "E", is that

correct?

A Right, uh-huh, we did.

Q All right. And in "G" which was in the 1972 Democratic Primary, --

A Yes, that was.

Q -- can you identify whose slate card that was?

A Oh, there is John Hill on there. How about that?

Q I thought you might notice that.

Would you tell us whose slate card --

A I shouldn't put that in testimony.

Q -- "G" is?

MR. YORK: Just as long as you get it on the slate card.

THE WITNESS: Well, we're in good shape there. We identified who we were, the Tarrant County Committee on Political Education, AFL-CIO, which is better known as C.O.P.E.

Q What Exhibit did you refer to by number there?

A "G".

Q All right. Now then, to "H" which was the second primary of 1972, could you tell us whose slate card that is?

A That is the Tarrant County Central Labor Council. It's identified as being the Tarrant County Committee on Political Education, which it actually

was. This is C.O.P.E., the political arm of the Labor Council.

Q All right. And "I" is also in connection with the

second primary of the -- second Democratic Primary. That's the last page, 1972?

A Yes. That was the Precinct Workers Council slate which was identical with Central Labor Council.

Q In that connection, that's the door-knocker type that you've previously --

A Doorknob.

Q Doorknob?

A Uh-huh.

MR. GLADDEN: All right. Now, we offer Plaintiff Escalante Exhibits 18A through I.

MR. YORK. Okay. We would have no objection to the admission of those exhibits into evidence.

MR. GLADDEN. Okay. Also, can we stipulate that legible copies of each of these items may be furnished to the Court Reporter in substitution of the originals?

MR. YORK: Sure.

MR. GLADDEN: With the understanding that the originals will be available to the Court at the time that this case is tried?

MR. YORK: It's so stipulated.

MR. GLADDEN. And that the deposition is offered to the Court.

Q (By Mr. Gladden) Mr. Sifford, I'll ask you whether or not you, as a Democratic Party official and as a member of

organized labor and an officer in organized labor for many years, have an opinion based upon your political experience and your political activities and your awareness of Tarrant County politics, whether or not a black candidate for the Legislature can obtain or attain the Democratic nomination for State Representative?

A I don't believe so.

Q The first question, do you have an opinion?

A Yes.

Q Okay. And what is your opinion?

A I don't think they can.

Q Okay. Now then, I'll ask you whether or not you have had that same opinion over the past years that you've been talking about?

A Yes.

Q Has that affected your actions in connection with candidate recruitment in your capacity as a labor leader and a Democratic Party official?

A Yes.

Q And I'll ask you how has that affected your actions in that connection?

A It is because of the fact that besides seeking people and supporting people who we think will be the kind of people we'd like to see in office, right next to that as a requirement is the fact that they do have a chance of winning.

And to be black in a predominently white Tarrant County at this state in time and probably for many years as I see it we have problems which keep coming up and compounding the racial tensions such as busing, every time you think that a situation might get better, well, something else happens and it gets worse instead of better.

And I could compare that -- there are other reasons that would make people, certain individuals, unelectable.

I can give one good example, is names. A person that's named J. W. Sifford would have a very difficult time being elected in Tarrant County; anybody with an odd-sounding name.

And I think you can go down through the years and you can see people named Evans and Green and Gladden and Richardson, good all-American names have a great importance.

And I would discourage, you know, if a good white Protestant named Jablonski came to me, I would advise him not to run because he can't win.

Q All right. And the reason that you would advise blacks not to run is what?

A Is they don't have a chance to win.

Q Is that your opinion?

A That's my opinion.

Q Is that based on your experience?

A Based on my experience through the years.

Q All right. The experiences that you've described here today?

A Yes.

Q All right.

A And this is not in any way based on any prejudice that I have. I would like to see black people in the Legislature for two reasons, for -- one because I think they ought to be there.

I think the blacks need and ought to have representation, one reason. And another reason is the very good practical reason that most of the blacks in the Legislature are good pro-labor people.

Q Do you have an opinion, based upon the experiences that you've outlined here and your other experiences, as to whether or not the black community from a political standpoint are submerged in Tarrant County by the overriding white majority in terms of being elected to public office?

A Are sub -- I don't know as I -- I think I gather what you're getting at and -- but I don't know if I'm clear on what you mean by "submerged."

Q All right. Let me ask you: do you have an opinion as to whether or not, or based on your experience, does the white majority dominate the political process in Tarrant County --

A Yes.

Q -- from the standpoint of selection and election of people?

A Oh, yes, definitely.

Q Okay. Do you have an opinion as to whether or not the black community as such as been denied effective participation in the political processes?

A Insofar as electing blacks, they have, they have been.

Now, there is no hesitation any more of white candidates seeking black support, whereas, at one time there was. There at one time, I would say in my political experience, a candidate in Tarrant County for the Legislature or for anything else, for that matter, would not want it be known that the black community was supporting him, but that's not true any more. They are -- the white candidates are very happy to have the black support.

But in turn, they are not willing to support a black.

Q All right. Insofar as a black person casting a ballot in the Democratic Party, if he wants to cast an effective ballot he'll vote for a white candidate, will he not?

A Right; if he's practical.

And I would say, in my experience, the black people as a group compared to other groups such as labor and Chicanos and other identifiable groups, are probably more

sophisticated and are more knowledgeable, they know who their friends are and who their enemies are.

So they have a tendency to vote along a practical line and they have at various times voted for a white candidate over a black candidate because of practical reasons.

Q This was so in 1972, was it not, in the Gaskin race?

A Gaskin-Willis race.

Q All right.

A I think Mr. Willis carried all or most precincts, black precincts.

(Off record discussion.)

Q In that connection, I'll ask you whether or not you're familiar with -- not in that connection but I'll ask you whether or not you're familiar with the availability or the offering of anybody with a Spanish surname for the Legislature in Tarrant County?

A Yes.

Q All right. And I'll ask you whether or not there have been two persons that have offered themselves in prior years who did have a Spanish surname?

A Yes. One was Robert Ramirez who we did support with the knowledge this was another circumstance where that the was running against a proven enemy, and we supported him to help turn out the Chicano vote and with full knowledge that we

didn't have a chance to win.

And the other one, I believe, was Harold Valderas, who ran against George Richardson who we had always supported, has always been a good friend of organized labor, and we supported Mr. Richardson and I believe most of the Chicano people did, too.

Q Other than those two, are you familiar with any other person that has ever run with Spanish surname or had Mexican-American ancestry that offered themselves for the Legislature?

A No, that actually run, no.

MR. GLADDEN: I'll pass the witness.

EXAMINATION

BY MR. COLLINS:

Q Just very briefly, I need to ask just a few very brief questions.

Mr. Sifford, since 1967, have you ever lived outside of Tarrant County?

A No. Not my -- my residence has been in Hurst for the last 20 years.

Q All right. In that connection, Hurst, Texas, is in Tarrant County, Texas?

A Yes.

Q And your residence in Hurst, Texas, is within the confines of Precinct District 32 for the Texas House of

Representatives, isn't it?

A Yes, it is.

Q Okay. And all of your testimony with reference to your political activity that you've given in this deposition so far is with reference to your activity within Tarrant County, Texas, is it not?

A Yes.

Q And what does the term "Seventh Street" refer to in Tarrant County?

A Seventh Street would refer to the -- what is generally known as the business establishment. There are -- Seventh Street is the street that's downtown where most of the big executive offices are maintained and where the Fort Worth Club is, which is kind of the seat of the big money executives of the town, and over the years we've kind of developed the phrase "Seventh Street" meaning the so-called quote unquote business establishment.

MR. COLLINS: Thank you. And do I understand that the Attorney General does stipulate that Plaintiff's Escalante's Exhibit 18A through I are admissible on the main trial of this cause?

MR. YORK: Are you and Mr. Gladden going to offer them separately, is that --

MR. COLLINS; Well, 18A first, I guess.

MR. YORK: No. We've stipulated with Mr. Gladden

that they're admissible in evidence under his offer, and I wonder if you've got some different offer?

MR. COLLINS: No. I just wanted the record to clearly reflect and I didn't know if it did that we do have that agreement.

MR. YORK: Yes. We do agree to that.

MR. COLLINS: Okay. Pass the witness.

MR. YORK: Let me say one thing at that juncture not for any purpose other than we don't want to be taken down the line as agreement that both counsel from the same office interrogate the same witness.

MR. GLADDEN: I just didn't touch base with him.

MR. YORK: No problem. Just didn't want to establish that as a precedent for anything down the line.

MR. COLLINS: I was just trying to fill the holes.

MR. GEORGE: I have a couple of brief questions.

EXAMINATION

BY MR. GEORGE:

Q I'm Jim George and I represent the Republican Party interest in this lawsuit, Mr. Sifford.

Let me ask you two or three quick questions. First of all, in the slating process, was it your testimony that the Seventh Street group that you've referred to has a slating process?

A Yes.

Q To your knowledge in your involvement in politics.

And that slating process takes place in the Democratic Primary?

A Yes.

Q To your knowledge, has a black or a Spanish surname ever been slated on their slate?

A No.

Q Never been slated?

A No, never.

Q What is the percentage of, give me your estimate of the percentage of candidates from either the Seventh --

A Now, I would back up to that. Maybe Bobby Webber did have some business support, but the predominently so-called Seventh Street gang that we know who are generally the influential people in Tarrant County politics did not support Mr. Webber.

Q Thank you. To your knowledge have they ever slated personally the Spanish surname or a Mexican-American?

A No.

Q Have not. What is your estimate based upon your knowledge of Tarrant County Democratic politics of the chances of a person winning the election without being a part of either the slate you have described or Seventh Street group slate?

A I would say that it's not good, even though it's not impossible.

Q Has it happened?

A Yes, I think it has happened.

Q But out of six or seven races, every two years --

A It wouldn't -- it hasn't happened very often, not very often.

Q Maybe one time?

A I guess you could -- well, you know, a candidate without -- very few candidates arrive on the scene that have the financial resources to start with or the, in lieu of the financial resources, physical resources that maybe we could provide, that it takes to run.

Q Okay. Thank you. Have any blakcs been nominated by the Republican Party for Legislative seats in Tarrant County?

A Yes.

Q Do you --

A Not in any contested races, but --

Q Well, they were nominated and ran against the Democratic --

A They were nominated because they were the only candidate in the primary, whether that means anything or not.

Q The Republican Primary?

A Right.

Q And they were nominated and ran against a Democratic candidate?

A Yes.

Q Were they ever elected?

A No.

Q All right.

A Generally they didn't even carry the black precincts.

Q So based upon your knowledge of Tarrant County politics, would you say that the Democratic Primary is the predominent election or political institution in Tarrant County?

A Yes, definitely.

Q So that election nomination in the Democratic Primary is tantamount to election?

A Yes. I suppose somebody from the Republican Party would be better qualified to testify to this than I, but it's common knowledge that they have very considerable difficulty in finding candidates to run in their Primary.

Q Okay. Thank you.

Can you tell me some estimate of the financial or the cost, typical, if you can say, race for the Democratic nomination in a contested race in Tarrant County?

A Yes. I would say that it would take twenty - at least $20,000.00.

Q That's a minimum?

A I'd say minimum. There's been much more than that

spent.

Q In connection with --

A In various races.

Q -- in connection with the cost of election, are the two primary sources of funds either organized labor or what we would refer to as the Seventh Street group?

A Well, business. Business or, you know, various groups who are special interest groups.

Q So as a minimum, it takes $20,000.00 to run?

A Yes.

Q And that's funds which do come --

A Which is a sum far above what we can come up with, I might add.

Q All right. That sum comes, that money, wherever it comes from or however much comes, either generally comes from either a candidate's own private sources or from one of these slating groups, is that your testimony?

A I would say generally it comes from some special interest groups is my belief.

MR. GEORGE: That's all the questions, I have.

THE WITNESS: There might be individuals that donate money simply because they're interested in government, but they're few and far between, unfortunately.

Q Excuse me. Or a candidate could have his own private --

A Could have his own funds.

Q But he would have to be relatively wealthy?

A He would have to be very muchly wealthy and willing to sacrifice a good deal, and I don't know that that has happened.

Q To your knowledge, it's never happened?

A It's never happened to my knowledge.

MR. GEORGE: Thank you. That's all I have.

EXAMINATION

BY MR. BONNER:

Q I have a few questions, also, Mr. Sifford.

I'm Norman Bonner and I represent a group of parties who are also residents of Tarrant County.

I'd like to take you back for a second to 1956 when you were a member of the Political Action Committee of the --

A CIO.

Q -- CIO.

Back in those very dark days when you sent out your cards without your name on them, I'd like to ask you this: "In forming your slating committee or inaugurating your slating activities, what constituencies were you trying to appeal to in '56?

A Generally, working people, liberals, minorities, union members.

Q So there was sort of a coalition, if you will, or

unofficial coalition?

A Well, the knowledge that there were groups of people who had the same interests and generally could be counted on to devote for a certain type of candidate. Generally, the so-called liberal Democratic type candidate.

Q And you were in communication with people from these various and sundry other groups that generally voted along the same lines?

A Yes.

Q And over the years the same coalition will more or less coalesce to the point that in '72, five elements of that coalition formed a mutual selection committee or screening committee, --

A Right.

Q -- is that correct?

A Right.

Q But by and large you've had the same coalition over the years, that is, labor, blacks, browns and white liberals, is that correct?

A Uh-huh.

Q And these were the people whom you primarily relied upon to vote for your candidates, is that correct?

A Right, right. That's definitely the -- we might look to other special interest groups for financing, but as far as votes, you know per se these were where we got our

votes.

Q Okay. You said you don't feel that a black candidate even now could win, is that correct?

A No, no.

Q You are, of course, aware that Mr. Webber made it to the run-off --

A Yes.

Q -- in 1972?

A Yes.

Q Well, how would you assess his showing in that runoff?

A Well, I think it was a -- as I said once before, names have a great deal to do with it.

One of the candidates, of course, was indicted, or I believe, convicted maybe at the time. I don't remember whether he was maybe indicted or convicted, and, therefore, very vulnerable. He would have been, had Mr. Webber have been the only candidate against Mr. Shannon, possibly he would have beaten him because, you know, people would have voted for even a black, I think, probably.

I'm not expressing my feelings, but I would think that a lot of people would put it in those terms and use maybe in a more vulgar phrase which you and I are familiar with in stating their opinion.

And then, of course, the two top vote-getters who

were Mr. Webber and Mr. Schieffer, as I said, the name, even though Tom Schieffer was and still is a young, attractive candidate, the name is not good.

And the name Webber is a good name politically. And I'm sure that there was a lot of people that weren't aware that Bobby Webber was black.

As I recall, he ran a race that was certainly not the usual liberal-type race, and he did -- I don't know how much money he spent, but I know he spent considerable because he had a great deal of both newspaper and especially radio. I think this is quite cognizant that he stayed off of TV. You know, there was no black face on TV, but you heard Bobby Webber, the name, considerably, on the radio.

There was quite a good deal of expenditure. And I think he probably reached the zenith that any black candidate, if there ever was a chance for a black candidate to succeed, that would have been it. Because he probably spent twice as much money as his opponent did even though his opponent did have considerable resources at his command in that he did have the support of money people.

Q Let me ask you this, Mr. Sifford: during your years with the, well, your years of activity in Tarrant County politics, have you ever seen it happen that a man might or a candidate might lose in the, say, run-off or one election year and then come back the next year and win an election?

A Yes. In fact, this has happened many times.

Q In other words, the public's familiarity with the candidate's name may also be an important factor as a man that's made a good showing as opposed to the bad showing, if a man has made a good showing, that is an asset in his running the second time around?

A Yes. His name has had exposure, he's had a campaign under his belt and he has a lot of experience to start out with and certainly --

Q You know, despite the fact that Mr. Webber ran a fairly good race the last time and made it into the run-off and had a lot of media activity, you still don't think he could be elected in 1974?

A No. I think with the set of circumstances that he wouldn't do as well. I just don't see how he could possibly do as well next time as he did this time.

I think this was an unusual sort of thing and, like I said, had he had -- had he been fortunate enough to be the only candidate against the indicted incumbent, I'm sure he would have pulled it off.

Q Tell me what element of your coalition breaks down when a black candidate is on the slate? You've got labor and minorities which in Tarrant County means primarily at least the black community, and you've got liberals.

Is it fair to say that -- I'm asking two questions,

I guess, really. Is it fair to say that when there's a black candidate that there's some defections from the coalition?

A Oh, yeah. I think there's a considerable defection from --

Q Where does that defection take place?

A From the blue collar worker, the laborer. The union worker and the non-union worker, you know.

There are more non-union workers than there are union workers, and these low paid blue collar, poor white workers, always tend to vote with -- for the same type of candidate or maybe, you know, they are -- actually we have pretty good evidence that they have always tried to find out who labor is supporting and even though they don't belong to a union they identify with organized labor being workers and they have a desire to vote for the people that labor are supporting, they have in the past.

But when it comes to -- because of the issue of busing and the whole integration bit that we've had with the -- that caused the emergence of the George Wallace factor, we have found that a good deal of the workers in the both union and non-union will not vote for a black person.

Q In other words, their attitudes vis-a-vis a black candidate are so hardened by whatever their response to the temper of the times or whatever, that no matter whatever his position on the issues are --

A Definitely, definitely. The first time maybe in history, the first time in modern history I know that a presidential election was decided on issue other than economics. With the election of Nixon over George McGovern the election was decided on sentiment instead of practicality.

Generally, you can count on the working people to vote their pocketbook. This was the first time in my knowledge in modern history, at least, that the people didn't vote their pocketbooks, but they didn't and this is true in all races, not just the presidency

Q All right. Just one or two quick questions on support that one slate-making group or the other which for convenience, I guess, would be divided into labor or business gives to its candidates.

Now, the C.O.P.E., what typically, whatform of support did your group give the candidates? You gave them money and what else?

A We gave them money, we gave them manpower.

Q To do what?

A To nail up signs, placards, to hand out handbills, we would assist in buying printing for them, get their brochures and other things that they have to have for a political office, get them printed; we would assist not only in mailing mailings to our own people; we would assist them in mailing mailings to other voters.

Q In other words, this was sort of doing a lot of leg work that's necessary for the campaign?

A Right. The nitty-gritty, the down to earth hard work that's necessary to win a political race. We've always had people to do these things.

Q You said in '68 Mr. Grays who was the first black that you recall or anyone else recalls running for the Democratic Primary, got less money than some of the other candidates on your slate, is that right?

A Right.

Q Would it be fair to say that he got less money than any other candidate on the slate?

A No, I wouldn't say that. But, he -- I knew there were others that --

Q Okay.

A What I'm trying to say, I guess, it wasn't decided so muchly on a negative basis as on a positive basis.

We accentuated the positive. We picked out the candidates, since we don't have -- you know, I went into what it cost to run which I think is common knowledge, and obviously we don't have the money enough to give everybody.

And when we had a candidate who had a tough race but still had a good chance to win and then obviously needed every penny we could rake and scrape together to put them over, we would concentrate on those candidates.

Q Right.

A This Mr. Grays knew this and was aware of it and he understood it.

Q Okay. Based on your experience and observations over the last, oh, I guess 16 years or so, has the black community generally supported the candidates picked by or endorsed by your group?

A Yes.

Q Almost without exception?

A Oh, yeab.

MR. BONNER: I see. Okay. That's all I have.

EXAMINATION

BY MR. YORK:

Q Mr. Sifford, you mentioned a $20,000.00 figure as more or less a minimum kind of figure to run a race for the State Legislature in Tarrant County.

I'd like to ask you if you know in more or less today's terms how that money would typically be broken down in terms of how it would be used in a typical race? Would that typically be half on newspaper ads or half on TV or handbills or how would that typically be broken down?

A Well, it could be broken down any way.

It would be tailored to suit the need or the supposed needs of the candidates. You know, maybe it's just a case of the personality of a candidate. Some candidates migh

spend it all on TV or they might spend it all, nearly all, on radio.

A certain amount of it is an expense just to get cards printed up, brochures printed up. You know, everywhere you go you've got to leave something, and this is a considerable expense.

Mailings is one of the big things. And this is why it's been so tough for us over the years in that since I have got started -- back when I first got active you could mail for a reasonable amount the entire voters of the county, was within reach of ordinary individuals. And we have elected candidates just on one good mailing to every voter in the county.

But the cost of mailing has gone up so that it's pretty well prohibitive. Gosh, you could use nearly the whole $20,000.00 for one county-wide mailing, the cost today, especially if you had to do it, you know, if you had to hire it all done.

If you can get volunteer help to stuff the envelopes and you know -- but it's getting harder and harder to get volunteers and especially when you've got the number of voters that faces us that you have to mail, to mail every voter in the county. The logistics of addressing by hand that many envelopes is staggering, so it's harder and harder to get volunteers and most people are not able.

You know, you could spent the whole $20,000.00. That's the reason why I say, many times much more than that is spent. And not in a wasted manner, although there are -- you know, there are times that I think, in my opinion, certain candidates have wasted money.

Q But you couldn't give the Court any estimation,then, of even a kind of rule of thumb as to how money would be broken down in these races, typical races?

A Like I say, they would vary. Mailings would be one of the big items that some people might not use; most probably would.

TV, radio, newspaper, these are three big items, very expensive and require not only a big investment but they require cash on the barrelhead, you know.

We have people who are still paying off debts after many years of, you know, running for office.

But there are things like radio and TV and newspaper, the different kind of expenditures that you've got to have cash for.

And printing anymore, there was a time when you could get printings done on credit but most printers now won't do printing for politicians on credit because they're afraid they'll never get their money.

So, you know, you could generally say things like radio, TV and some-- I couldn't say that it would always be

the same things, but these would be the big items in anybody's campaign.

Q All right. In any event, whether you had single member districts or whether you had multi-member districts, as a practical matter it would be difficult to conceive of a candidate winning who did not make significant use of TV, radio --

A Oh, not at all. In single member districts it would be very easy for a candidate to knock on every door. If they're energetic enough, they could knock on every door and there's nothing more effective than person to person communication still.

There's no more effective way of, you know, of soliciting a vote than to walk up to an individual and say, "I'm J. W. Sifford. Would you vote for me?" Everybody that you do like that is going to vote for you.

But with the number of voters that we have county-wide, it's absolutely impossible.

And you could do that in a single member district, you could run -- I'm sure that there would be, you know, most people would have some expenditures in a single member district, but it's conceivable that a person could run and win with absolutely no expenditures.

Q I understand that is a conceivable possibility. But in terms of practical politics, one would not think that

any candidate would likely run without making the use of TV, radio and the major daily newspapers, just in terms of practicalities?

A Well, like I said, I can recall when, you know, the candidates that we supported in the past when we were successful, they would get elected just on a county wide mailing to all the voters.

We can't do that anymore. That's prohibitive. We have never been able to afford such a thing or the candidates we support have never been able to afford such a thing.

And single member districts with what we're talking about seven thousand something?

Q Seventy five thousand.

A Seventy five thousand?

Q People.

A People. And then when you get the registered voters within that, it's going to come down considerable. And a mailing would be within the reach of just about anybody.

And, like I say, a lot of times this is all that's needed to get you elected.

No. I think that it's very practical to win a race without any radio, TV, newspapers. In fact, it would be a considerable amount of waste.

Maybe I'm just a prudent type person. My wife has accused me of being stingy sometimes. I'd feel bad about

wasting money on newspaper that went all over the county when, you know, I've got that kind of a district, and I could distribute it. You know, there's many ways. You can hire kids to go door to door --

Q Let me ask it in terms of --

A -- pretty reasonable.

Q In terms of what your organization if you were to back a candidate in what you consider a serious race where the candidate had a good chance to win, would you recommend that your resources be allocated in such a way that you not make use of TV, not make use of radio and not make use of the major daily newspapers in a single member district situation?

A Yes. In fact, I don't know when we have allotted any of our money -- of course, there have been occasions when we have just turned the money over to candidates and let them do their own thing, but generally we don't have a lot of money and we have an interest in the candidate winning, and if they'll listen to us at all the type of money we have will go only so far and it just don't go very far on radio and TV, you know, it's not effective on radio and TV and the newspapers unless you saturate it.

So generally -- in fact, I can't recall when we have spent any money, any organized labor, C.O.P.E. money, on such things.

Generally, we use it for distributing material,

printing material, distributing material, things that we know where you are directly contacting the individual voter and we feel is more productive.

Now, you know, if you can afford $50,000.00 to run for State Representative in Tarrant County, well, certainly we would be happy to see that candidate purchasing radio and TV time.

Q What kind of money has your organization in recent years been able to contribute, say, what would be a maximum amount in any one race?

A House race?

Q Right.

A About a maximum -- and this is exceptional -- we have maybe two or three thousand dollars. Generally I would say we would maybe come in with two hundred and fifty to five hundred is all that we would have to put on a House race.

Q All right, I take it that the choice by your group of individuals for the slate has never ever had any racial motivation in the sense that the choice of a white over a black was never made because you wanted to exclude blacks from the political process but was rather made based on your judgment of whether or not blacks could win the race?

A Generally this is true, but I wouldn't say that our leadership is completely without prejudice. I think there are some in there who are, you--can be qualified

as labor leaders who are prejudiced and would not for personal reasons want to support a black.

Q Can you cite any instances since you've been in the positions that you've held since 1956 where a black was excluded from your slate purely because he was a black as opposed to because of your estimation of his chances of winning?

A No, no.

Q All right. And your council has been made up in part most of the time of blacks, has it not?

A We have some black delegates. And, of course, we've got black members. But predominently it is a white, male, forty and over organization.

Q All right. What is the size of the council that you're talking about, your delegates in the council presently?

A I believe -- and it varies -- right now there's probably 200 delegates representing a membership of at this time somewhere like 17,000.

Q Now, of that 200 roughly what proportion now are black?

A I'd say maybe five percent. That might be -- that would probably be a liberal estimate.

Q And of the 17,000, what percent would be black?

A You know, I've never seen a breakdown of that, and that would be an interesting study, I suppose, but probably not more than five percent.

Q All right. And what is the size -- if I've got the terminology right -- of the council that actually does the screening?

A This is the delegates. The council is composed of delegates from the various local unions. And this is based upon the number of members that each local has. They have a prorated number of delegates that they send to the council.

Q Well, isn't the screening group, though, somehow a sub-group of that --

A Yes. The screening group, it's generally based upon a cross-section of the council.

Q So that the black representation in that screening group would be about the same as black representation in the number of delegates?

A Uh-huh. Probably we've never had more than one or two black people on the screening committee.

Q And what size would the screening committee normally be?

A Maybe a dozen people, dozen to fifteen.

Q All right. I'm sure this evidence will come out from other sources. But do you know, generally, what the percentage of black population of Tarrant County is? At this time?

A I believe it's something like 12 or 13 percent.

Q All right. And what about the Chicano, brown

population?

A Seems like they are something like three or four percent.

Q All right. You made the statement awhile ago that you weren't aware of any candidates who had succeeded who were not either on the slate of the so-called business group or the Seventh Street group or the labor group.

Would you think it fair to say that generally in elections, whether you're talking about single member districts or multi-member districts in this State and other States and throughout the country, that by and large candidates don't get elected unless they have identifiable business support or unless they have identifiable labor support?

A Generally, that's generally true.

Q All right. And did you testify that you're not specifically aware of the mechanics of how the so-called business slate is put together?

A No.

Q In other words, you don't know that they have a screening committee or couldn't give us any information about --

A No. Well, of course, I -- no, I really don't have any knowledge. I'm pretty sure they don't have a screening committee. I can't really testify that they don't but I'm pretty sure they don't.

Q I'm not certain, but I don't recall whether or not

any of these slate cards that you have showed us purport to be slate cards from the so-called business groups?

A No, no. None of them. And I -- it's not -- at least, it's not the usual thing to have a slate card from a business group.

I believe I did testify earlier in the testimony that you can pretty well identify by certain precincts that are silk stocking, quote, type precincts.

They're people that they are supporting that carry predominently -- and I've never really figured out how they do it. You know, I'd like to duplicate it if it's -- you know, maybe they've got a secret that we don't know about that we can use.

I don't know how they do it, but some way the word gets out who the right person is to vote for and they generally vote for him.

Q The fact that the relatively wealthy precincts tend to vote for candidates which are supported by the business leaders of the community is not a particularly surprising fact in itself?

A No. And, you know, I guess if there is a reverse thing there because they would naturally vote against a labor supported candidate and they could easily know who the labor candidate was and they would vote against the labor candidate.

But still that doesn't explain why, you know, in

many races there are like three or four candidates, but the one who is, you know, the fair-haired boy of the business community always carries in these type precincts.

Q I mean that can well be --

A So it's just the negative vote. There's obviously a knowledge there of who the designated, annointed candidate is.

Q That could well come from just the natural Democratic process of a business leader, say, endorsing a particular candidate and the people in a particularly wealthy area in effect buying that endorsement?

A Well, it could come -- I've thought it could be attributed to the fact that businessmen tend to see -- maybe see one another more than labor people and liberals and minorities and this sort of people do in that they have clubs and they have luncheons and country clubs and they see each other quite often. Maybe this is the way they get the word around.

Q But in your efforts to prepare documents for this case and so on, you've not been able to come up with anything as formal as any kind of printed slate card that you would say have been prepared by the so-called business community or the Seventh Street bunch or anything like that?

A No.

Q Okay.

A The nearest thing I can come to that is that there have been newspaper reporters present stories setting out the slate of the business people.

Q All right.

A With no -- not attribute it to anyone within the business but simply a knowledgeable reporter, newspaper reporter, knowing who the slate is and they would print a story on it.

Q All right. That kind of thing, of course, could happen just as easily on the labor side even if you didn't have a formal slating arrangement, it wouldn't be that hard to figure out who the candidates were that labor was behind, --

A That's right.

Q -- right?

A That's right.

Q Okay. What about the degree to which the elected white representatives have been responsive to the needs of the black and brown community in this county?

Let's take the present delegation, and not talking about being responsive particularly to labor's needs or to business' needs or the beer lobby's needs, or, you know, various groups like that, but talking about in terms of responsiveness to the need of the black community, for instance, in terms of votes in Austin.

A Uh-huh.

Q What can you say about the responsiveness or lack of it in your present delegation to the needs of the black community in this county?

A It's not good.

Q Specifically, what do you mean by that?

A I would say that on most issues that are desirous of the black community, they vote against it.

Q What would some of those issues be, say, in the last Legislative Session?

A Well, I think even though there is some divided opinion on busing, there was resolutions on busing opposing busing that the majority of the representatives voted for, even though the State Legislature had nothing to do with busing.

We wouldn't have to be here today had the delegation been responsive to the needs, I think -- there is no division at all among the black community on the need for single member State Representative Districts had the present delegation been responsive to those wishes. You could have been in Austn and I could have been asleep and we all wouldn't have to be --

Q I'd rather have been asleep than in Austin.

A Not a whole lot of difference, I guess.

Q What other issues can you think of where the delegation has not been responsive to what you would view as

the needs of the black community?

A Well, most economic issues such as nursing homes, their delegation has not supported the State getting into nursing homes.

Consumer laws which, that is to thanks the Attorney General, we have got a good consumer law.

Q Do you know how the type of delegation voted on that in the final analysis?

A Most of them voted against it.

Q Do you know who voted for it?

A Yes. Doyle Willis, Chris Miller, maybe one or two others, maybe I don't -- I'm not sure exactly, but most of them voted against it.

Q If one or two did, that would be almost like half the delegation voted for it, would that be right?

A Well, I don't -- I wouldn't want to say because I can't, you know, I can't be that factual on it, but as I recall they did vote against it.

Q What other issues can you think of?

A Well, interest. I think black people are generally poor people, and at least medium income, and high interest rates are very bad for black people and they oppose it.

They introduced a bill which would have made -- had high interest rates in it even though it was purported to be a regulatory bill, it was probably a good bill except fo

the fact that it had really high, too high, interest rates in it that was even so bad that a number of the more pro-business people voted against it. This is an example of the response and --

Q How did the rest of the delegation stand on Representative Finney's bill?

A I don't recall. I don't recall. But, you know, this is an example of a candidate like Mr. Finney who runs at large, had no fear of reprisal for introducing such a bill; whereas, if -- I'm sure not the type of district -- knowing where he lives, the type of district he would be in which would be almost exclusive working class district, he wouldn't dare introduce such a bill if he had to run in a district just of his general neighborhood of where he lives.

Q But in a single member situation, someone else might well be able to introduce a bill that was, say, ten times worse in your view and come home and not be afraid if he was in a conservative enough district?

A No. I don't think anybody could introduce one with any -- knowing that bill, I don't believe I could -- but I do, I would agree that certainly there would be districts where there would be people that could introduce such legislation.

Q The point I'm making in that respect is: that even in a single district situation you wouldn't expect the entire delegation to be responsive to the needs of, say, the black

community; you'd expect certainly there to be human responsibilities to the needs of everybody, but you would expect some members depending on where they were elected from to be more responsive to the need of the black community than others?

A Certainly.

Q And it wouldn't be reasonable when you're talking about responsiveness in terms of a whole multi-member delegation, it really wouldn't be expected for everyone to be responsive to the black community?

A Right. But in following the last session of the Legislature, I think anybody that had any awareness of it at all knows the effect that single member districts in Bexar and Harris and Dallas had on the last session of the Legislature in that there was a so-called black caucus that did make their feelings known, and if it had not been for single member districts in those counties they would not have had that.

And so there were advocates of black people who did make an impact, and certainly black representatives from this county would add to that impact.

Q Am I correct in thinking that since 1956 there's only been one year where the five organizations that you've talked about or five groups have ever gotten together on kind of a joint screening process?

A Well, this is the only time we've ever gotten together formally in the screening process.

There is other times that we have on some occasions we have screen candidates separately and then gotten together and tried to -- but one of the problems we found there is that some political candidates tend to tell the groups and the individuals they're talking to what they want to hear, and we felt that if we all got together they'd have to all tell us the same thing and we found out they hadn't been doing so.

And so that's the reason we decided, you know, we found it very difficult because it seemed as though when we tried to get together after we had individually talked to the candidates they didn't seem like the same people.

Q What about, for instance in 1968 when Mr. Grays ran, how did your slate -- the labor slate fare generally that year? What were you looking at, seven or how many places were you looking at then, seven or nine?

A To really be factual, I'd have to see - I just can't pick out of the air who all was, you know -- I've seen so many slates and so many years. If I could see who the people were that were running, I could tell you very easily, but I don't think I can come out of the air exactly who all was running then.

Q In the years where the --

A I don't remember. Generally, I don't know.

Q All right. In the years where the five or so organizations that you've mentioned, and the five or so groups

have not gotten together to have a joint kind of screening, has it been a situation where it just kind of depended on what year you were in as to whether the labor guy won or whether the business guy won or whether the -- some other group might win?

I take it labor did not always win and the business did not always win?

A Well, I would think it would be fair to say that generally we lost more than we won, you know.

Q So it wasn't a matter of the labor group being able always to get together in a slate kind of thing and being able to pick the guy or girl that was going to win, nor was it that way for business?

A Well, I don't know, like I say, I don't know how -- I can't answer for business, but there are -- you know, there are a lot of factors.

Our people don't turn out, you know. This is always -- we do everything we can to get them to go vote. Like we'd like to think they were out voting today, but I suspect that they're not going to.

There are things of interest in the election today to us, and I don't -- and in most elections the more well-to-do people, I think, studies will show you always turn out; and more so than the working people.

Q Do you know from your own history here in Tarrant County whether the percentage of black population has increased

over the last, say, twenty years that you've been closely observing politics?

A Yeah, I believe it has increased; I think it's increased.

Q On what order of magnitude would the increase be?

A Oh, I wouldn't say by any great magnitude. I guess the thing that probably has made more of an impact is that over the years they have became better organized and probably more politically aware over the years.

Q For intance, on that point, to your knowledge do you know when the Precinct Workers -- what's that group called?

A Council.

Q Precinct Workers Council, when that was formed and when it became a viable --

A I think -- no, I can't pinpoint it, but I think, and I'm sure this could be better testified to by someone other than me, but I believe it was sometime in the late 50's.

Q And to your knowledge has that resulted in generally a greater registration of black voters as a percentage of the black population?

A I think -- well, they have -- I think the black voters have registered in greater numbers over the years. That's probably one of the factors.

Of course, there are many other factors. You know, there have been all kind of groups and this is one of the

efforts that we always put a lot into is registering minority people, we spend time and money and effort in encouraging minorities to register just as well as we do our own people.

You know, in fact, of late years we've got a lot more confidence in the minorities voting the way that we would prefer to see people vote than generally our own people do.

Q Do you as a labor group sometimes re-slate or re-endorse after the first primary, would you be likely to endorse somebody that you have not previously endorsed?

A Might -- we possibly would, yes. We have on occasion. Maybe, you know, there have been occasions when the person we endorsed in the first primary didn't get in the runoff, and then we would make an endorsement from the two remaining candidates.

Q What is the situation in elective offices generally in Tarrant County, that is, non-House members as far as the County Courthouse is concerned, do blacks hold any offices over there that are elective offices?

A No.

Q Any District Judges that are black?

A No.

Q Well, you know the list as well as I.

Are there any that you're aware of that are black?

A There's never been any run that I'm aware of for any County office.

Q All right. And what about browns?
A Yeah. There have been on occasion. Pete Perez ran for Judge -- District Judge in the last Primary.
Q How about any jobs -- pardon me. Go ahead.
A And I think there was one ran for Justice of the Peace or something.
Q Now, Justice of the Peace is not a County-wide election, is it?
A No. In this case it was Justice of the Peace, Precinct One, which is all of the City of Fort Worth, so it is a good portion of the --
Q Are you aware of any blacks or browns who have run in any -- for any elective office within Tarrant County for any of these jobs without naming all of them but for any of these jobs where the election is from an identifiable part or precinct of the county as opposed to the entire county such as Constable or Justice of the Peace or any such job as that?
A I don't believe any has ever ran.
Q Anyone from --
A Well, other than that one case I said there was a Chicano ran for Justice of the Peace in Precinct One. Other than that, I can't think of any.
Q Even from precincts which might be generally identifiable as black or brown precincts?
A Well, I don't think you could identify any, you

know -- the county, you know, the way that the people live in the county, I don't think we've got any, you know, that -- even Justice of the Peace precincts that would be anywhere close to being predominant minority or black or, you know, or even putting blacks and Chicanos both in there, I don't think you would come anywhere close to having a majority in any of them.
Q You don't have enough blacks or Chicanos generally in the county for that to be true, is that right?
A Well, that and the particular way that they live, you know, the pattern of residence.
Q What would be your estimate under any single member plan that you can think of, of the number of blacks who might be able to get into the Tarrant County delegation?
A I think that definitely there would be one, and a good possibility of two, and an outside possibility of three, you know, or maybe two blacks and a Chicano.
Q Out of a county that has nine seats?
A Yeah.
Q And a total black population of what, ten or fifteen percent, I believe you said, or thirteen?
A Twelve to fifteen.
Q All right. And a brown population of two, three or four percent?
A Yeah.
Q You think it would be possible to elect as many as

three of the nine representatives --

A That would be very optimistic, you know, but there's a possibility. Definitely one, possibly two, and an outside possibility of tbree.

Q Mr. Sifford, you've been very informative to us and I appreciate your time and patience with all of us. Thank you.

A Glad to do it.

MR. YORK: That's all.

MR. GLADDEN: I have one or two questions by Mr. Sifford.

RE-EXAMINATION

BY MR. GLADDEN:

Q In connection with the increased cost, back in 1956 at the time that you first became involved in Legislative races we had a poll tax, is that correct?

A Right.

Q And there was limited registration at that time?

A Yes, very muchly.

Q All right. Following the Supreme Court ruling on repeal of the poll tax, there has been an effort to sort of universally register every qualified voter in the county, is that correct?

A Yes. And not only that but with permanent registration or continuing registration which we have now has increased it even more.

Q This has increased the number of registered voters, is that correct?

A Yes; and percentage.

Q Okay. And where in 1956 or 1958 you could mail to only those persons that had paid a poll tax --

A Right.

Q -- county wide, you find now that you have to mail to a substantially greater number --

A Yes.

Q -- if you're going to mail them?

A Seems like 320,000 last time.

Q 320,000 county wide, is that right?

A I can remember when we could mail to something like 20,000.

Q All right. Now, in that connection, you are familiar with, are you not, or have been familiar with, as you say, different candidates' attitudes toward the different media or means of communicating their candidacy in the district or county?

A Yeah.

Q All right. And some have relied almost wholly on mailing, have they not, --

A Yes.

Q -- in years past?

A Uh-huh.

Q All right. As between a constituency of 75,000 and a constituency of nine times 75,000, from a practical standpoint a direct mail campaign is nine times more expensive, is it not?

A Right. Well, you take 320,000 and divide it by nine, how many would that be?

Q You're talking about the whole county and we're talking about District 32.

A They'll take a little out of that, maybe knock it down to 300,000, divide by nine, nine into 300,000 would be what?

Q I don't know.

MR. GEORGE: 27,000.

THE WITNESS: Nine into thirty is --

MR. YORK: About three and a third, something like that.

THE WITNESS: Thre e and a third. So you're talking about 30,000.

Q (By Mr. Gladden) Thirty thousand?

A Thirty thousand, a mailing of 30,000 would get it in a district.

Q All right. As opposed to 300,000?

A As opposed to 300,000 in District 32 which we presently have.

Q So a direct mail campaign is nine times less

efficient in a multi-member district or nine times more expensive, is that correct?

A Right. That would also be true of a handbilling door-to-door type operation.

Q From a geographic standpoint?

A From a geographic standpoint.

Q You could cut out and do a door-to-door distribution?

A Of handbills.

Q All right. You mentioned David Finney awhile ago. He is a member of the Legislature from District 32, is that correct?

A Right.

Q All right. In conjunction or in connection with the cost of a campaign and your estimate as to $20,000.00 being a minimal successful campaign, there are, of course, those who have run on- who have spent substantially less, is that correct?

A Oh, yes, yes.

Q All right. And won?

A Yes. I concede that.

Q All right. Present membership, advertisement and name familiarity is accumulative, is it not?

A Yes.

Q In that a member of the Legislature who is an

incumbent who has run for public office has accumulative name familiarity?

A Yes. And also a person who has been in the news such as a TV announcer.

Q Such as Mr. Sherman?

A Such as Mr. Sherman. You know, Mr. Sherman originally beat an incumbent and he was better known than this incumbent was because of his exposure on television.

Q All right. And in connection with your estimate as to the cost of a campaign, I assume that you're assuming that an average person who does not have a built-in name familiarity, it would take a minimum of $20,000.00, is that correct?

A Yes.

Q And someone like Mr. Sherman who has been on the ballot for several years and who started out as a TV sports announcer, it wouldn't take that much money for him?

A He conceivably wouldn't spend that much, but I doubt if he's ever spent any less because he's had resource to the funds. You know, I'm not blaming him. I probably would in his place, too, but he could have maybe gotten by with less.

Q As for example, Chris Miller who was elected this last time, is that correct?

A Right.

Q From her starting out in a campaign in District 32

with her name familiarity and the people knowing her and not knowing her, it was necessary to spend a minimum of $20,000.00, is that correct?

A I would think so. And I don't know what she spent.

Q All right. And in that connection, she did have also a built-in advantage that she was running against a fellow that, though he wasn't convicted of anything, got caught leasing equipment to the State, is that correct?

A From his own firm, yes.

Q He was in the business of leasing stuff to other members of the Legislature and letting the --

A And she also had the advantage that she was a former newspaper reporter and in the Public Relations business and had a much stronger, closer relationship with the media that helped her a great deal, I'm sure.

And, also, the fact that she did -- does have some money of her own.

Q But from the standpoint of starting from scratch with her campaign, in order to acquaint the community --

A Just to get her name before the public, she had to spend that much money, yes.

Q Do you have an opinion as to what she stood for?

A I don't know as what she stands for has anything to do with it. You know, State Representative races, it's a popularity contest and you've got to be the best-known name.

Q All right. Why is it a popularity contest in District 32?

A Why is it?

Q Yes.

A I don't know. I don't know as it's any different in District 32 than it is anywhere else for the State Legislature. It's just that people are just not as interested in the State Legislature as -- they don't feel as close, I guess, to a State Representative as they do to a County Commissioner or a Justice of the Peace who's right here and they seem to understand their function better even though, you know, you and I and a lot of us in this room know that there's no more important office than the Legislature, but the general public don't seem to understand that and they're --

Another reason is that we have such a long ballot, especially in the Democratic Primary, and we've always got state offices, governors, senators, attorney generals, and by the time the ordinary person has absorbed all the rhetoric, good or bad, from all these people running for these offices, by the time they come to a lower race of State Representatives, they're pretty well saturated and they get to where they just don't give a damn, you know.

Q All right. Do you think the fact that they have to acquaint themselves with the positions and the backgrounds of nine times the number of candidates that would be fielded in

a single member district may have something to do with --

A Oh, yeah, definitely. I know this -- this certainly has a great effect on the knowledge that a person has, you know --

One of our functions is to try to encourage our members to correspond with the members of the Legislature on specific legislation that we're interrested in either defeating or passing, and generally we'll ask somebody to write their State Representative and they say, "Who is my State Representative?"

And you tell them they've got nine, they lose interest. They just don't -- they just can't comprehend that they've got nine State Representatives.

Q And by the same token a person seeking to advertise District wide his position and his name for the Legislature does not really advertise his name just against his opponent but it's against all the other candidates for the State Representative, is that correct?

A Right. A long ballot and many other offices that have a predominance in the eyes of the voters over the candidate for State Representative.

MR. GLADDEN: I believe that's all.

MR. YORK: I don't have anything further.

CHANGES AND/OR CORRECTIONS

PAGE	LINE	REASON

MR. JOYCE WENDELL SIFFORD

STATE OF TEXAS

COUNTY OF_____

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this _____ day of November, 1973.

Notary Public in and for
_____ County, Texas

STATE OF TEXAS

COUNTY OF TARRANT

I, Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, do hereby certify that the facts stated by me in the caption to the within and foregoing deposition are true; that said deposition was taken before me pursuant to the agreement of the parties; that the within named witness was duly sworn to testify the truth; that the questions asked and the answers given were taken by me and subsequently transcribed by me and reduced to typewriting by me or under my supervision, and that the within and foregoing typewritten pages constitute and contain a full, true, complete and correct transcript of all proceedings had.

I further certify that I am neither attorney for, related to nor regularly employed by any of the parties hereto, and, further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, and that I am not in any way financially interested in the outcome of said proceedings.

TO CERTIFY WHICH, Witness my hand and seal at Fort Worth, Tarrant County, Texas, this ____ day of November, 1973.

GAYLORD STURGESS-COURT REPORTER
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
NOTARY PUBLIC IN AND FOR
TARRANT COUNTY, TEXAS

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

FRANK ESCALANTE, ET AL	
VS.	NO. A-73-CA-115
MARK WHITE, ET AL	

ORAL DEPOSITION

OF

BETTY J. FISCHER

ORAL ANSWERS AND DEPOSITION of the witness, BETTY J. FISCHER, in answer to questions propounded to her in the above entitled and numbered cause, taken by the Plaintiffs before Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, in the Law Offices of Don Gladden, 702 Burk Burnett Building, Fort Worth, Texas, on November 6, 1973, pursuant to the hereinafter set out Agreement of counsel:

APPEARANCES

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STIPULATION

IT IS STIPULATED AND AGREED by the parties to the above entitled and numbered cause, through their attorneys appearing herein, that the Oral Deposition of the within named witness may be taken at this time before Gaylord Sturgess, Official Court Reporter, United States District Court for the Northern District of Texas, and a Notary Public in and for Tarrant County, Texas.

IT IS FURTHER STIPULATED AND AGREED that all formalities with reference to the taking and returning of said deposition are hereby waived except as to form of questions or responsiveness of answers; and that the witness may return and sign her deposition before any qualified Notary Public of the State of Texas.

IT IS FURTHER STIPULATED AND AGREED that the questions and answers so propounded and given, together with all other proceedings had, when transcribed by the Court Reporter, may be used in either or all of the cases pending herein by either party hereto, subject to such objections as could be made if the witness were on the stand testifying in person, without the necessity of filing written objections to any question or answer, and without the necessity of making objections at the time of taking said deposition.

BETTY J. FISCHER,

called by the Plaintiffs, having first been duly sworn to testify the truth, the whole truth and nothing but the truth, testified as follows, to-wit:

EXAMINATION

BY MR. GLADDEN:

Q State your name, please.

A Betty Fischer.

Q In that connection, you're Mrs. J. Nile Fischer?

A That's correct.

Q And where do you live, Mrs. Fischer?

A 1507 Bluebonnet Trail, Arlington.

Q And that's situated in Tarrant County?

A Yes.

Q All right. In that connection, I'll ask you how long you've lived in the Tarrant County area continuously?

A Since 1953.

Q All right. And I'll ask you whether or not you have been active in politics during any portion or period of that time?

A Since 1956.

Q In that connection, I'll ask you when did you first become involved in the political processes in Tarrant County

and in what capacity or what function?

A My first involvement was doing telephone campaigning for the presidential candidate, Adlai Stevenson, in 1956.

Q All right. That was in the fall of 1956, is that correct?

A Yes.

Q All right. And you say telephone solicitation?

A Yes.

Q Were you recruited to do that sort of thing by anyone in particular or how did you become involved in that campaign?

A I was recruited by an acquaintance to do that telephoning.

Q All right. And I'll ask you whether or not you continued to be active in politics in Tarrant County thereafter?

A Yes. The next spring I worked in Senator Yarborough's campaign in a special election, and then from 1960 to the present time I have worked almost continuously as a volunteer in several different type of campaigns.

Q In that connection, I'll ask you, are you employed in any manner, are you a housewife or what is your circumstance with respect to your employment?

A I'm housewife.

Q All right. And your husband's background and what sort of work does he do?

A He's an engineer with Bell Helicopter.

Q All right. And has he been in engineering during the entire period of time that you're talking about?

A Yes.

Q All right. Mrs. Fischer, I'll ask you whether or not you've done any research and some work in connection with the preparation of the lawsuit in which you're testifying?

A Yes, I have.

Q All right. I'll ask you whether or not Plaintiff's Exhibit No. 1 was in part prepared either by you or under your supervision and direction?

A Yes, it was.

Q I'll ask you whether or not Exhibit No. 1-A reflects the boundary lines of the Legislative District, District 32, does it not?

A Yes, it does.

Q And it also reflects that portion of District 42 situated in Tarrant County, is that correct?

A Yes.

Q Now then, there's one slight exception to that, and that is in the upper northwest portion there are some census tracts since 1971 were moved from District 42 into District 32, is that correct?

A Yes, sir.

Q Did it appreciably change the make-up of District

32?

A No.

Q All right. Now, other than the district lines, I'll ask you whether there's other information appearing on that map?

A Yes, there are.

Q All right. Now, the other information is what?

A It's the green x's indicating the residences of the present Legislative delegation at the time that they were elected in 1972.

Q All right. I'll hand you what has been previously identified as Plaintiff Escalante Exhibits Nos. 3-A through 3-I, and ask you if you can identify those?

A Yes. These are copies of voter registration applications of each of the State Representatives from the County Tax Assessor-Collector's office.

Q For the year 1972?

A Yes.

Q All right. Now then, do the green x's on Plaintiffs Escalante's Exhibit No. 1-A correspond with the general location and particularly the census tract of those voter applications as shown in Plaintiffs Escalante Exhibits 3-A through I?

A Yes. They are within the census tracts as shown.

Q All right. Now, Plaintiffs' Exhibit No. 3-A

through I were prepared and certified by the County Clerk's office at your request, is that not correct?

A County Tax Assessor-Collector's office.

Q Oh, by the County Tax Assessor-Collector's office?

A Yes, they were.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibits 1-A and 3-A through 3-I into evidence.

MRS. LEVATINO: That's fine.

Q (By Mr. Gladden) All right. In this connection, Mrs. Fischer, the information which is contained on Plaintiffs' No. 1-A, in addition to the lines which you have caused to be put on it, reflect census tract information that was placed on there by the Texas Legislative Council, is that correct?

A Yes; and population.

Q And population figures, all right.

Now, those population figures and the census numbers are taken from the census, the 1970 census as conducted by the United States Department of Commerce, is that correct?

A That's correct.

Q As is reflected in the census tract information for the standard metropolitan statistical area of Fort Worth?

A That's right.

Q All right. Now then, you have done substantial research and studies and comparisons relative to the social, economic and ethnic make-up of District 32.

I'll ask you whether or not you used as a primary reference the Department of Commerce publications prepared following the 1970 census?

A Yes, I did.

Q All right. In that connection, your primary reference material was publication No. "PHC (1)-74" entitled "Census Tracts Fort Worth, Texas, standard metropolitan statistical area, 1970 census of population and housing," is that correct?

A That is correct.

Q All right. And basically, that information was directed toward these census tracts as shown on Plaintiff Escalante Exhibit 1-A?

A That's true.

Q All right. Now, in some instances, in order to do some computation and figuring, it was necessary for you to go to a tract of something smaller than the census tract, is that correct?

A Yes.

Q And in that connection, it was necessary for you to go to a Department of Commerce publication which was prepared following the 1970 census, No. "HC (3231)" titled "Block Statistics, Fort Worth, Texas, Urbanized Area, 1970 census of housing," is that correct?

A Yes.

Q All right. Now, these two publications were the basis upon which you built census tract information, is that not correct?

A Yes.

MR. GLADDEN: All right. We don't have copies to be submitted. We will offer for the purpose of the record as a basis for her later testimony copies of both of these publications.

MS. LEVANTINO: That's fine.

MR. GLADDEN: You have no objections to their being substituted, being offered and given to the Court Reporter to be included?

MS. LEVANTINO: That's fine.

Q (By Mr. Gladden) Now, in connection with Plaintiffs' Exhibit 1-A, the portion of that map which is contained in the center and inside the black lines is District 32, is that correct?

A That's correct.

Q And with that one slight exception that portion outside the black lines is District 42?

A That is right.

Q All right. I'll ask you whether or not you prepared and made a division of the county into four basis sections -- not the county, excuse me, the district into four basis divisions in order to make some statistical evaluation as to

economics and mean family income?

A I did.

Q All right. I'll hand you what has been identified as Plaintiffs' Exhibit No. 1-B and ask you if that map accurately reflects the lines which you used in dividing the county into these subdivisions or subsections?

A Yes, it does.

Q All right. In that connection, I'll ask you if you have used Plaintiffs' Exhibit No. 2-A and B which will be the census, the Department of Commerce Census Bureau material, as the basis for the information that you have or the comparative information that you have prepared?

A Yes, I did.

Q All right. Would you tell the Court what the basis make-up of these four quadrants of the county -- first of all, there's a northeast, a northwest, a southwest and a southeast quarter, is that correct?

A Yes.

Q Would you tell the Court what the make-up of these quarters of the county are with respect to mean family income and size and also population data, if you have it?

A Well, in the whole of District 32 we have a population of 675,368 with total population of 82 percent white.

There are 147 census tracts in District 32.

Then when we go to the quadrants, starting with the

northwest quadrant which has a population of 171,241. It is 82 percent white, 7 percent black and 11 percent brown with a mean family income of $9,317.00; a mean family size of 3.88. Two representatives presently live in the northwest quadrant.

The northeast quadrant has a population of 178,067. The white population is 95 percent of the total, brown is 3 percent, black is 2 percent. The mean family income in the northeast quadrant is $12,605.00. The mean family size is 3.77, and four representatives live in this quadrant.

The southeast quadrant has a population of 153,811. The white population is 61 percent, the black population is 36 percent, the brown population is 3. The mean family income here is $9,093.00. The mean family size is 3.98.

Arlington falls in -- part of Arlington falls in the southeast quadrant. Arlington is unique in the fact that it is a separate entity in the county. The income in Arlington is much higher. It is almost a totally white community.

So I did take Arlington out of the southeast quadrant and the southeast quadrant of District 32, without Arlington, has 109,658 population. The white population is 47 percent, the black population is 49 percent, the brown population is 4 percent. The mean family income then drops to $8,815.00. The mean family size in the southeast quadrant is 4.04 and no representatives in the southeast quadrant.

Q The southeast quadrant including Arlington as well

has --

A Including Arlington.

The southwest quadrant has a population of 172,420. The white population is 87 percent, the black population is 7 percent, the brown population is 7 percent. The mean family income in the southwest quadrant is $13,374.00. The mean family size is 3.74 and three representatives live in the southwest quadrant.

Q All right. In that connection, there is some difference between the southeast quadrant in terms of population. You attempted to base your quadrant size on population, is that correct?

A That's correct.

Q All right. In that connection, at the time that you made these original computations, you were contemplating the Supreme Court finding the entire Legislative Redistricting Plan unconstitutional and your original figures included some of those districts or some of those census tracts which are now in District 42, is that correct?

A That's correct.

Q All right. Now, back, Mrs. Fischer, to your activity in political campaigns.

You testified you did telephone solicitation for Stevenson in '56, Yarborough in '67.

Since '60, what have you done in the nature of

being involved in and acquainting yourself with the political process in Tarrant County?

A I've worked in numerous Legislative races.

I co-managed Frances Farenthold's race here in the county last spring.

I have managed three voter registration campaigns.

Most of my work has been done primarily in precinct type organization, precinct type work.

I have belonged since 1964 to the Tarrant County Democratic Woman's Club, I served as president of that organization for two terms from 1968 to 1972.

I have belonged to the Democratic Organizing Committee, served as a vice-chairman of that organization for six years, am presently the chairman of the Tarrant County Democrats.

Q All right. In that connection, you are familiar with and have been familiar with history --have been familiar with the Democratic Party during the periods of time that you've been active from 1956 to the present time, are you not?

A Yes, I am.

Q All right. In addition to that, because of your activities, you've made yourself acquainted with the history of the Democratic Party in Tarrant County prior to the time when you actually became personally involved, is that correct?

A Yes. The Democratic Woman's Club has been in

existence since 1932 and has a scrapbook dating back to 1934, and served as an educational organization, and I've had quite a chance to do some research in the history of politics in Tarrant County.

Q All right. Are you familiar with whether or not there's ever been a black candidate run for the Legislature prior to the time that you got involved in politics in 1956 in the Democratic Primary?

A Yes.

Q I will ask you whether or not any have run prior to 1956?

A No.

Q All right. Up to 1956, then, the Democratic Primary was a completely white primary insofar as at least Legislative candidates were concerned?

A Yes.

Q All right. And then I'll ask you if you have been familiar with the candidates since the time that you first got involved in the political process in around 1956?

A Yes.

Q All right. And you know the ethnic background and what-not of each of the candidates?

A Yes.

Q I'll hand you what has previously been identified as Plaintiffs' Escalante Exhibit No. 4 which purports to be a

copy of the Democratic Primary election ballots for the years 1960 through 1972 with the exception of the years 1964 and '68, and in those years tally sheets are supplied rather than ballots.

Was this obtained pursuant to your supervision and collection for this lawsuit?

A Yes, it was.

Q All right. In that connection, I'll ask you if you have had occasion to examine these ballots?

A Yes, I have.

Q All right. And I'll ask you whether or not you've determined the number of candidates that have sought the Democratic nomination for the State Legislature during the years 1960 through 1972 as shown on that exhibit?

A Yes. There were 136 candidates during those years.

Q All right. Now then, would you tell the Court how many of those candidates were black?

A Three.

Q All right. And their names were?

A Charles Grays in 1968, Bobby Webber in 1972, and Jim Gaskin in 1972.

Q All right. Now, then, in addition to that, did you examine those ballots and refresh your memory as to whether or not there had ever been any candidates during that period of time with Spanish surnames or Mexican-American ancestry?

A For Legislative purposes, there have been two with

Spanish surnames or Mexican-American ancestry.

Q You did examine the ballots?

A Yes, I did examine the ballots.

Q In that connection, how many have been with Mexican-American surnames?

A Two with Mexican-American surnames, Harold Valdez in 1964 and Robert Ramirez in 1968.

Q It is Harold Valderas.

A Valderas, I'm sorry.

Q Now, other than those five candidates, out of how many?

A Out of 136.

Q Okay. Other than those five, do you know of any candidates for the Legislature during that period of time that were either black or brown or have any other identifiable ethnic minority?

A No, I do not.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibit No. 4 which is the Democratic Party ballot.

MS. LEVANTINO: No objection.

Q (By Mr. Gladden) All right. I hand you what has been identified as Plaintiffs' No. 5, Plaintiffs Escalante Exhibit No. 5, and ask you if that is a compilation of candidates which appeared on the Republican Primary ballots during the years 1960 through 1972?

A Yes, it is.

Q In that connection, I'll ask you if you've had an opportunity to examine that list?

A Yes, I did.

Q All right. In that connection, I'll ask you whether or not Republican candidates were fielded in the general election years during the period 1960 through '72 for Legislative races?

A Yes, they are.

Q I'll ask you whether or not you know if any of them ever won or not?

A None ever won.

Q All right. You're familiar with the history of Tarrant County.

Has there ever been a Republican member of the House of Representatives elected to the Legislature?

A No.

Q Now, with respect to the three Legislative candidates that you've identified as being black, I'll hand you Plaintiffs Escalante Exhibit 6-A, B and C and ask you if you can identify those exhibits?

A Yes. This again is voter registration applications -- copies of voter registration applications from the County Tax Assessor-Collector's office. These are for Charles Grays, Bobby Webber and James Gaskin.

Q And those are the three black persons that have sought the Democratic nomination for State Representative?

A That's correct.

Q In that connection, those are the 1972 voter application for voter registration, are they not?

A Yes, sir.

Q You testified Charles Grays ran in 1968. Were you personally acquainted with Mr. Grays at that time?

A Yes, I was.

Q Were you familiar with where he lived at that time?

A Yes, I was.

Q And does he live at the same place as he did when he ran in 1968?

A Yes, he does.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibits 6-A, B and C.

MS. LEVANTINO: No objection.

Q (By Mr. Gladden) I hand you what has been identified as Plaintiffs Escalante Exhibit No. 1-C and ask you if this instrument was prepared either under your supervision or by you?

A Yes, it was.

Q All right. In that connection, again this is a census tract map, the basis map being prepared by the Legislative Council and contains the lines on District 32 with that slight

deviation, is that correct?

A That's correct.

Q All right. And in addition to that information, I'll ask you what other information is reflected on that map?

A This map shows the black population of Tarrant County -- of District 32 to be 80,336 or 12 percent of the district. The blue area --

Q Excuse me just a moment now. In this connection, you used Plaintiffs' Exhibits 2-A and 2-B to make calculations as to black concentration, is that correct?

A Yes, I did.

Q All right. Now, that's the census tract information?

A Yes.

Q Now, then, what does this map reflect and how do you go about --

A This map reflects, the blue areas are the 25 census tracts that have greater than 30 percent black population in them.

There are only 15 census tracts in the district where the blacks comprise more than 5 percent and less than 30 percent in population.

All of the 15 tracts except for three are contiguous with these blue areas.

Q Now, by the 15 tracts, you're talking about the 15

tracts that have --

A Less than 30 percent.

Q Okay.

A And there are three tracts with less than 30 percent that are in smaller suburban areas and do not touch this blue area here.

Q All right.

MR. YORK: I'm confused. Is she saying more than 30 percent or less than 30 percent?

Q (By Mr. Gladden) The blue area represents census tracts where there is 30 percent or more black population?

A Yes.

Q All right. In addition to that, there are how many more tracts that have some black population in them?

A Fifteen tracts with some -- less than 30 percent in them.

Q And of those 15 tracts, 12 of those 15 tracts are contiguous with this blue area?

A Yes.

Q And if you don't mind me testifying here a little bit, there are three census tracts that are not contiguous with but which are situated in other --

A Incorporated cities.

Q -- incorporated cities?

A Yes.

MR. YORK: Has this man been sworn?

MR. GLADDEN: I told you I was going to do this.

MR. YORK: But you were saying that other groups of under 30 percent also had a lower limit on it, as I understood it, five to 30 percent?

THE WITNESS: Five to 30 percent.

Q (By Mr. Gladden) I didn't know I'd done that. Okay.

So there are 18 tracts then or 17 tracts. Eighteen tracts are from 5 to 30 percent?

A There are 15 tracts between 5 and 30 percent.

Q Okay.

A Twelve of those 15 fall next to this blue area. Three tracts are in suburban areas.

Q Okay. So your computations then are that besides this blue area of black concentration there are 15 tracts in District 32 that have more than 5 percent blacks and less than 30 percent blacks?

A That's correct.

Q And that of these 15, 12 of them are contiguous with the blue area?

A That's right.

MR. GLADDEN: Understand it now? I'm beginning to.

Q (By Mr. Gladden) All right. Now, then, in that connection, did you make any computations or determinations as

to greater concentrations of black than the 30 percent as shown on the map?

A Yes, I did. There are 13 tracts where there is more than 75 percent black, and I did some income analysis of those, found that the mean income in the tracts with 75 percent or more black had a mean income of $6,570.00.

Q Did you make any determination as to the mean family size in those 13 tracts of more than 75 percent black population?

A Yes, I did. They had a mean family size of 4.04.

MR. YORK: Can I ask at that point if the greater than 75 percent black areas are within this blue area?

THE WITNESS. Yes, they are.

MR. YORK: Okay.

MR. GLADDEN: The blue area is 30 percent and so some of those within there are greater than that.

THE WITNESS: Yes.

MR. YORK: Okay.

Q (By Mr. Gladden) In that connection, I'll ask you whether or not you have shown on that map the voter information or registration of the three black candidates who have offered themselves for Democratic nominations?

A Yes.

Q All right. Would you idenify which census tracts each of the candidates live in?

A Charles Grays was in census tract 63, Bobby Webber is in census tract 4502; and Jim Gaskin was in census tract 39.

Q Now, in that connection, each of those residences were within the areas wherein there was 30 percent or greater black concentration, is that correct?

A That's correct.

Q Now, Mr. Webber has moved since 1972 or since the registration in '72.

Is his present residence still in one of those census tracts?

A Yes.

(Off record discussion.)

Q (By Mr. Gladden) I hand you what's been identified as Plaintiffs Escalante Exhibit Nos. 7-A, B and C and ask you if these exhibits were prepared not under your supervision but at your request by the County Clerk's office in Tarrant County?

A Yes, they were.

Q All right. And those exhibits reflect the returns from selected Legislative races during 1968 and '72, is that correct?

A That's correct.

Q It shows the returns in 1968 Charles Grays-Bud Sherman race, the Place Five race, between Schieffer-Webber-Shannon and Beck in 1972, and the Place Nine race in 1972 all in the Democratic Primary, incidentally, of Willis-Ziegel-

meyer and Gaskin in 1972, is that correct?

A That's correct.

Q All right. Now these are the three Legislative races in the Democratic Primary that have had a black candidate, is that correct?

A That's correct.

Q And these are first primary returns?

A Yes.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibits No. 7-A, B and C in evidence.

MS. LEVANTINO: No objection.

Q (By Mr. Gladden) All right. I hand you what has been identified as Plaintiffs Escalante Exhibit 8-A, B, C and D and ask you if those were prepared at your request by the County Tax Assessor of Tarrant County?

A Yes, they were.

Q All right. And I'll ask you if those instruments are a tabulation of the total registered voters in Tarrant County by precincts for the years 1968, 1970 and 1972?

A That's correct.

MR. GLADDEN: For your exhibit information, that should be 70 instead of 60.

And "A" and "B" are 1968 and '70.

"C" was the one prepared in April of 1972 in anticipation of the primaries. And "D" is in November of 1972,

in the general election, is that right?

A That's right.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibits 8-A through D.

MS. LEVANTINO: No objection.

Q (By Mr. Gladden) I hand you what has been identified as Plaintiffs Escalante Exhibits No. 9 and ask you if that was prepared at your request by the County Clerk's office?

A It was.

Q And I'll ask you if that is a compilation of the total votes actually cast in the Democratic, Republican Primaries of 1968, '70 and '72 and the general election of each of those years?

A Yes, it is.

Q All right. And that was of selective precincts, is that correct?

A That's correct.

Q You were the person that did the selecting in terms of which precincts that you wanted prepared, is that correct?

A That's correct.

Q All right. Now, based upon those figures and upon the census information that you previously identified, have you done any statistical analysis as to whether or not there is any evidence of black polarization or polarization of votes with respect to black Legislative candidates?

A Yes, I have.

Q Now, would you tell the Court just what steps you went through and what information you used and how you acquired this information in this process?

A All right. In the 1968 race where Charles Grays and W. C. Bud Sherman ran against each other, I first took the 17 black precincts of Tarrant County and determined --

Q Excuse me. By 17 black precincts, what do you mean by 17 black precincts?

A These are the 17 precincts that have a high number of blacks residing in them, traditionally have voted -- are black population.

Q All right. In that connection, are all of those presided over or were all of those presided over by black precinct chairmen?

A All but two; precinct 1 and precinct 10 did not have black chairmen.

A All right. In this connection, Tarrant County was composed of approximately 152 voting precincts in 1968, is that correct?

A One hundred fifty nine.

Q One Hundred Fifty Nine in that year?

A Yes.

Q All right. And you were familiar with the make-up of those geographically, is that correct?

A That's correct.

Q This was based upon your activities and voter registration in political campaigns?

A Yes.

Q All right. And you were familiar with the ethnic and economic make-up of the geography of Tarrant County and could relate it to precincts, is that correct?

A That's correct.

Q All right. And is it your testimony that you're using by what you call black precincts those precincts where they had black precinct chairmen, plus these two that you, of your own knowledge, knew to have an extremely high concentration of black population?

A That's right.

Q All right. Precinct One, for instance, is in the downtown area or was in the downtown area, and was composed of the east side of Main Street wherein there is a lot of black low-income, is that correct?

A And north of the Courthouse where there is a lot of blacks.

Q All right. Now, if you'll go ahead and tell us what your findings were in connection with the 1968 race, using these figures?

A In the 17 black precincts, Charles Grays received 4,290 votes or 89 percent of the votes from the black precincts.

Bud Sherman received 540 votes or 11 percent of the votes in the black precinct.

Charles Grays in the remaining 142 precincts which were predominantly white had 18,094 votes or 27 percent of the vote.

Bud Sherman had 47,788 votes or 73 percent of the white vote.

Q All right. Did you do the same computations for the 1972 races involving Webber and Gaskin?

A Yes, I did.

Q All right. Would you tell us first about the Webber race?

A All right. By 1972 we had two additional predominantly black precincts so I'm now talking about 19 black precincts.

Q By that are you saying that there were two -- now, how did you go about determining that those were black precincts?

A Well, the movement has been from the inner city to the outer areas of the town, and there have been two precincts where the leadership has changed from white precinct leadership to black precinct leadership.

Q So of these 19, 17 of those --

A Have black chairmen.

Q -- have black chairmen and the other two are predominantly black although they have white precinct chairmen?

A They're still the same two; one and ten.

Q Would you tell the Court what your findings and calculations are on the Webber race?

A Webber is Place Five, District 32, he received 6,732 votes or 77 percent of the black vote.

Tom Schieffer received 1,205 votes or 14 percent of the black votes.

Mr. Shannon received 517 votes, Mr. Beck 277; not even one percent for either of them.

In the 157 white precincts --

Q Excuse me. Can you give a total, an overall total of the combined Shannon-Schieffer-Beck vote in the black precincts?

A 2.3%, Mr. Shannon got all of it.

Q That's Mr. Shannon that got --

A I mean Mr. Schieffer got all of it.

Q Well now, wait a minute.

A Mr. Shannon and Mr. Beck both got less than 1 percent.

(Off record discussion.)

Q (By Mr. Gladden) Mrs. Fischer, in connection with your references to black votes in black precincts: the 17 precincts that you've mentioned in connection with the Grays race in '68 and the 19 precincts that you've mentione with respect to the Gaskin and Webber races in '72, those a

precincts that are almost exclusively black precincts, is that correct?

A That's correct.

Q Where the population is in excess of at least ninety percent?

A I would say so.

Q Except possibly Precinct 10 which is one of those that you mentioned as being one with a white precinct chairman?

A Yes.

Q All right. And so, when you talk in terms of and when you've mentioned these statistical figures in saying Webber got so much percent of the black vote and Schieffer got so much percent of the black vote, you're speaking not necessarily of the black vote but of the total votes cast in those particular precincts?

A That's right.

Q And as a practical matter, you are familiar with and aware of the fact very few white people vote in those precincts with the exception of a few in Precinct 1 and a few in Precinct 100?

A That's right.

Q And the precincts such as 58 and 59, a hundred percent black vote in those, is that correct, so far as you know?

A Yes.

Q Okay. Now, if you'll go on with your statistical

figures.

I believe we were talking about the place 5 race in 1972 in which there were four candidates. You testified that Webber got 77 percent of the vote in those 19 selective precincts, is that right?

A That's correct.

Q And Schieffer got the balance?

A That's right.

Q With the exception of a small number that Tommy Shannon, the incumbent, and Tommy Beck received?

A That's right.

Q In that connection, Mr. Schieffer did have -- or at least as best you could determine Mr. Schieffer did have Seventh Street support and Mr. Webber had the non-Seventh Street slate support, is that correct?

A That's right.

Q All right. Now, if you will, tell us about the Gaskin race, the Place 9 race between Willis, Ziegelmeyer and Gaskin in 1972?

A Would you like to hear how Mr. Webber fared in the white precincts in 1972?

Q Excuse me. I'll have to back up. I lost my place on the exhibit.

All right. Tell us about how the candidates in Place 5 fared in the non-black or the remaining precincts in

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the county.

A That there were 157 precincts that were predominantly white. Mr. Webber received 25 percent of that vote, Mr. Schieffer 44 percent, Mr. Shannon 16 percent, Mr. Beck 15 percent; the Schieffer-Shannon-Beck combination was 75 percent of that vote.

Q All right. So the vote was roughly 75 for the total -- for the combined white candidates to 25 for the black candidate outside these almost exclusively black precincts and just almost the opposite in the 19 selected precincts where Webber got 77 and the combined white vote was 23, is that correct?

A That's correct.

Q Now then, will you tell us about the Place 9 race?

A Place 9, District 32, Jim Gaskin, Doyle Willis and Mrs. Ziegelmeyer. And the 19 predominantly black precincts, Jim Gaskin received 32 percent of the vote, Doyle Willis 57 percent of the vote, Mrs. Ziegelmeyer 11 percent of the vote.

Q Excuse me. In that connection, by then there were a greater number than 159 precincts in Tarrant County, is that correct?

A That's correct.

Q How many were there?

A There was 176.

Q One hundred seventy six voting precincts in 1972?

A That's right.

Q All right. So you're talking about 19 as compared to a total of 176?

A That's right.

Q All right, go ahead.

A The combined white vote in the 19 selected black precincts was 68 percent, Mr. Gaskin's was 32 percent.

And the 157 remaining precincts which are predominantly white, Mr. Gaskin received 20 percent, Mr. Willis 57 percent and Mrs. Ziegelmeyer 23 percent.

Mr. Willis and Mrs. Ziegelmeyer received a combined total of 87 percent of that vote.

Q All right. So the white community voted 80 percent or the non-black precincts voted 80 percent for the combined two white candidates, is that correct?

A That's correct.

Q All right. Now, in connection with the black vote for Gaskin, I believe you testified it was 33 percent?

A Thirty two percent.

Q Thirty Two percent in these 19.

You used the same 19 precincts in making your computations in both the Webber and the Gaskin computations, right?

A That's right.

Q All right. Are you familiar with whether or not

the Tarrant County Precinct Workers Council endorsed either Webber or Gaskin?

A They endorsed Mr. Webber; they did not endorse Mr. Gaskin.

Q All right. Now then, in connection with the voter participation, have you made any kind of a study to determine the turn-out or the voter participation among blacks and whites in District 32?

A Yes, I did.

Q All right. And did you base your calculations on exhibits now in evidence?

A Yes, I did.

Q All right. Would you tell the Court what exhibits you used and how you went about making a comparison and what your comparison shows?

A I used Exhibit 9 and Exhibit 8-A, B, C, and D.

Q All right. Now, what you're talking about is that the total registered voters as shown in Exhibits 8-A through D and Exhibit 9 which are selected actual votes cast as certified by the County Clerk's office, in that connection you selected the precincts from which the County Clerk certified the voter turn-out or voter participation as shown in Exhibit 9, is that correct?

A That's correct.

Q All right. And would you tell the Court the basis

upon which you made selections of those specific precincts?

A. I selected five black precincts with the heaviest concentration of black votes in them and did it on a geographic basis as best that I could spread them across the county and across the economic spectrum of the black community as well. I selected ten white precincts based on the high concentration of white voters and geographically spread across the county and economically across the sphere of income in the county.

Q. All right. Now, plaintiffs Exhibit No. 9 does reflect the specific precincts that you had selected, is that correct?

A. That's correct.

Q. All right. What were your conclusions or what were your findings in using these, as far as comparing the information on Exhibit 9 back against Exhibits 8-A through D, what were your conclusions with respect to voter turn-out?

A. That in the primaries as well as the general election there's a much lower voter turn-out in the black precincts than there is in the white ones.

In 1968 in the primaries blacks voted 32 percent of their total registered voters, the whites 39 percent of their total registered voters.

The general election of the same year, the blacks voted 77 percent of their total registered voters, the whites

77 percent of theirs.

In 1970 it's pretty much the same with the blacks voting in the primary at 28 percent of their strength, whites voting 31 percent.

Q. By whites, you're talking about those precincts--

A. Those selected white precincts.

Q. All right.

A. And in the general election of that year, the blacks voted 43 percent of their strength, the whites voted 57 percent.

In 1972 in the primary, the blacks turned out 30 percent of their registered voters, the whites 34 percent.

In the general election of '72, the blacks voted 53 percent of their strength, the whites voted 72 percent of theirs.

Q. All right. Mrs. Fischer, is it your testimony that in 1972 in the primary when there were two black candidates seeking the Democratic nomination there was only 40 percent turn-out among the registered voters in those selected black precincts?

A. That's correct.

MR. GLADDEN: We offer, if we haven't already 8-A through D, and 9. I think we already did.

MS. LEVATINO: You might want to clarify to be sure you've offered it. I think there are a couple more that you missed before.

MR. GLADDEN: Okay, thank you.

MS. LEVANTINO: I wasn't keeping track.

MR. GLADDEN: At this point in time, we'd like to, in order to recap, offer, if we have not already, 1-A, 1-B, 1-C; 2-A and B will be submitted later, the census tract information; 3-A through I, which is the voter registration applications of the present members of the Legislature; 4 which is the ballots of the Democratic Primary and tally sheets for the years 1960 through '72; 5, the certification of the Republican candidates for the year 1960 through '72; 6-A,B and C which are the voter registration applications of Charles Grays, Bobby Webber and Jim Gaskin for the year 1972; 7-A, B and C which are the returns for the Place 3, 1968 Democratic Primary, the Place 5, 1972 Primary, and the Place 9, 1972 Democratic Primary. In that connection, Place 5 was the first primary.

We have also offered and do offer Plaintiffs' Exhibits 8-A,B,C and D which is the certification of the total registered voters during '68 to '70, April, '72, and November, '72; and Exhibit 9, which is a certification by the County Clerk's office of the total votes cast in selective precincts in the Democratic and Republican Primaries and the general elections of 1968, '70 and '72.

Do you have any objections to any of those?

MS. LEVANTINO: No.

Q. (By Mr. Gladden) All right. Now I'll hand you Plaintiffs Excalante Exhibit No. 1-D.

MR. YORK: Let me say one thing for the record on these agreements that we're making as to the admissibility of evidence.

We certainly would reserve the right to perhaps offer other exhibits which might contest or seek to show conclusions different that the ones reached by these. By making these agreements we simply agree that these exhibits may be admitted into evidence while not necessarily agreeing that the conclusions are right or that they're the only conclusions to be drawn from the exhibits.

MR. GLADDEN: We understand. And in this connection we'd like to at this point tender that any certification by any records, party records of either the Republican or Democratic Party of Tarrant County, will go in by the same stipulation, in either selected or complete records; that if there are selected precincts that you seek to have certified and offered, we would have no objection and stipulate that those can go in and whatever conclusions that you might seek to reach will be weighed accordingly and that this stipulation, one does not go to the weight of.

If there's some information that is incorrectly reflected in this, you certainly have a right to contest the information in terms of numbers and what-not.

But all we're doing is letting these in and if they are what they are and presuming that they are admitted and that doesn't exclude any other records which might reflect other information relative to these things. Okay?

MR. YORK: Great.

Q. (By Mr. Gladden) Okay. Now, I've handed you Plaintiffs' Exhibit No. 1-D and ask you if this was prepared under your supervision or direction or by you?

A. Yes, it was.

Q. This also is a basic census tract map showing District 32, is that not correct?

A. That's correct.

Q. Now then, you have colored in a portion of that map. I'll ask you whether or not you have at my request made a determination, based upon the information contained in Plaintiffs' Exhibit 2-A and B, the census tract information, of those census tracts containing 30 percent or more brown Chicano or Mexican-American ancestry-type population?

A. Yes, I did.

Q. All right. And I'll ask you how many census tracts show 30 percent or greater Chicano population concentration?

A. Seven census tracts.

Q. All right. I'll ask you whether or not you, at my request, have done any computation to determine whether or not there is any brown versus the rest of the community or Mexican-

American versus the rest of the community polarization of votes in District 32?

A. I made an attempt to. I found that it was impossible to analyze the brown vote because there is no precinct with that high concentration of brown people in them.

Q. All right. In that connection, you're familiar with the make-up of the brown or the location of the Mexican-American population in Tarrant County,are you not?

A. Yes. And I did try to--I worked with figures from 48--Precinct 48 and Precinct 49 which have the heaviest concentration of browns. They're both in census tract 3 and 9, at least part of them was. But they also extend into the white areas and the white vote makes it impossible to determine brown polarization of votes.

Q. All right. And in that connection did you use Precincts 48 and 49--incidentally, those precincts, would you tell whether or not those precincts have Mexican-American precinct chairmen?

A. They both have Mexican-American precinct chairmen.
Forty-eight has had Mexican-American precinct chairmen since 1960, Mr. Lazo was elected in '60.

Q. All right.

A. I'll correct myself; he was elected in '62.

Q. Joe Lazo was Precinct Chariman and he was the first

Mexican-American to be elected Precinct Chairman in the Democratic Party, is that right?

A. That's right.

Q. He was elected in what year?

A. '62.

Q. He's Precinct Chairman of Precinct 48?

A. That's right.

Q. All right. What did you find in using Precincts 48 and 49 with respect to polarization of votes, what else did you use?

A. I just couldn't find any polarization of votes.

Q. All right. Did you go back to the Valderas and Ramirez races and look at the vote turn-out in those two?

A. Yes, I did. In the Valderas race of '64 and the Ramirez race in '68.

Q. And there just wasn't anything that you could reach any conclusion as to polarization?

A. No.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibit 1-D in evidence.

MS. LEVANTINO: No objection.

Q. (By Mr. Gladden) I'll hand you Plaintiffs Escalante Exhibit No. 1-E and ask you if that was prepared under your supervision or direction?

A. Yes, it was.

Q. All right. And I'll ask you if that again was the same basic census tract showing population and census tract designations and District 32 outlined?

A. Yes, it is.

Q. All right. I'll ask you whether or not that also shows economic information in terms of family incomes as based upon Plaintiffs' Exhibits Nos. 2-A and B?

A. Yes, it does.

Q. All right. I believe you testified earlier the mean family income of District 32. Would you tell us again what that is?

A. $11,296.00.

Q. All right. What does this information contained in Exhibit 1-E consist of and describe it, if you will, please?

A. All right. The information in 1-E is the pink area is that part or those census tracts that have $8,000.00 or less mean family income.
The purple tracts have $14,000.00 or more mean family income.
The part that is left white has between $8,000.00 and $14,000.00 mean family income.

Q. All right. In that connection, there's kind of a marked resemblance between the combination of 1-C and D and the pink portion of 1-E, is there not?

A. They are almost identical.

MR. GLADDEN: All right. Now then, we offer 1-E in evidence.

Q. (By Mr. Gladden) Okay. I hand you what has been identified as Plaintiffs Escalante Exhibit 10-A and B, 11-A and B, 12-A and B, 13-A and B, and ask you if you can identify the instruments?

A. Yes. Those are all expense account--copies of expense accounts that the candidates have filed in the County Clerk's office.

Q. All right. Those instruments were prepared at your request and certified to by the County Clerk, is that correct?

A. That's correct.

Q. All right. And Exhibit--for brevity I'll go ahead and identify those.
Okay. 10-A and B are the expense reports of Charles Evans in District 32, Place 1 for 1972; Dan Dipert for that same race, is that correct?

A. That's correct.

Q. And it shows an expense statement by Evans as being $22,865.37?

A. That's correct.

Q. And Dipert at $12,529.06?

A. That's correct.

Q. All right. If you will, go ahead and explain 11-A and B, 12-A and B and 13-A and B, giving us the names of the candidates and the amount shown in their expense reports.

A. 11-A and B is W.C. Bud Sherman and John Chidgey. Bud Sherman spent $3,840.49 for Place Three. John Chidgey $3,938.04.

Q. That's District 32, Place Three, for 1972, is that correct?

A. That's correct.

Q. All right.

A. 12-A and B, District 32, Place 8, Chris Miller spent $19,029.60.

Cordell Hull, $1,623.44

I would like to point out that Mr. Hull's records were very hard to check, and I can stand corrected on those. I am not sure whether that is an accurate figure or not. It appears that he received more in contributions than he listed as expenditures.

Q. All right.

A. I did my best to get an accurate figure.

Q. All right. That is District 32?

A. Place 8.

Q. Place 8 for the 1972 election, is that correct?

A. That's correct.

Q. All right. And 13?

A. 13-A and B is District 32, Place 5, Tom Schieffer.

spent $10,400.00

Bobby Webber spent $27,619.42.

Q. All right. That was the 1972 primaries, also, is that correct?

A. That's correct.

Q. All right. In that connection, in Exhibit 10 Charles Evans with 22,000 was the winner of the Democratic Primary and was subsequently elected in the general election, is that correct?

A. That's correct.

Q. And in 11, Bud Sherman was the incumbent and he won the nomination and was elected, is that correct?

A. That's correct.

Q. All right. In 13, that was an open race there was not an incumbent, is that correct?

A. There was not an incumbent in the run-off. There was an incumbent--

Q. All right. In the first primary, Tommy Shannon, the gentleman who had been convicted or something, was eliminated in the first primary--

A. That's correct.

Q. --and it was turned into an open race following the first primary--

A. That's right.

Q. --between Schieffer and Webber. Now, Webber is the same person as Bobby Webber who's been identified as being black?

A. That's correct.

Q. And Schieffer was the man who's brother was a newscaster here in Fort Worth, is that correct?

A. That's correct.

Q. And is currently with CBS in Washington?

A. That's correct.

Q. And Webber spent $27,000.00 but Schieffer won the primary and the general election, is that correct?

A. That's correct.

Q. All right. Now then, I'll ask you whether or not you obtained--if we haven't, we offer Plaintiffs'---

MRS. LEVANTINO: Can I ask a question?

MR. GLADDEN: Sure.

MRS. LEVANTINO: I notice that the certification keeps saying here this is a part of the Democratic Primary election statement of the people. Are you submitting this to say that it's like a cumulative, this is all they spent?

MR. GLADDEN: No.What we're seeking to do, one

is from an economic standpoint. In addition to the total shown on the front page, each candidate files in Tarrant County a list of those persons who made contributions, so you might have 14 pages of contributors but this actually shows as best we could determine the total amount reported to have been received and spent, but it doesn't show which persons gave him the money.

MS. LEVANTINO: So you are offering these to show totals, right?

MR. GLADDEN: Yes. The purpose of these exhibits is to show the total amount each of the candidates reported to have spent in seeking the nomination in each of these races, and that we eliminated just as a matter of avoiding cluttering of the record and what-not the other data which they filed with the County Clerk's office reflecting sources of contributions and that because we just didn't--are not offering them for that purpose.

MS. LEVANTINO: I have no objection.

MR. GLADDEN: All right. Now, that was 10-A and B, 11-A and B, 12-A and B and 13-A and B.

Q. (By Mr. Gladden) I now hand you Plaintiffs Escalante 14-A,B and C and 15-A and B, and ask you if you will identify those?

Rather than you identify them, let me identify them. Those are--I might as well let you come along for the ride. Those are Orange County returns or expense reports from

the Secretary of State's office reflecting the expense report of candidates in Orange County, Texas, is that correct?

A. That's correct.

Q. For District 8?

A. That's right.

Q. Would you tell us what 14-A,B and C reflect?

A. Mr. Peveto (SPELLING) P-e-v-e-t-o spent $4,778.65. Mr. Haynes spent $5,057.67. Mr. Darwin, $1,118.44.

Q. In that connection, Mr. Peveto and Mr. Haynes were seeking the Democratic nomincation, is that correct?

A. That's correct.

Q. And Mr. Darwin was the Republican candidate who apparently had no opponent in the primary but was in the general election.

A. That's right.

Q. And is it your information Mr. Peveto won the Democratic Primary and subsequently the general election?

A. Yes.

Q. All right. Now, as to Plaintiffs' Exhibit 15-A and B, those are also Secretary of State's certified records showing the expense reports from District 42, is that correct?

A. That's correct.

Q. District 42 is composed of all of Parker County and that portion of Tarrant County which is

not included in District 32?

A. That's right.

Q. All right. Would you tell the Court what those records reflect with respect to expenditures of money?

A. Mr. Coody spent $3,220.39. Mr. Upchurch spent $266.00.

Q. Both of those were candidates in the Democratic Primary, is that correct?

A. That's correct.

Q. Mr. Coody won the Democratic nomination?

A. That's right.

Q. And subsequently was elected in the general election?

A. That's right.

MR. GLADDEN: We offer Plaintiffs Escalante Exhibits 14-A,B and C and 15-A and B.

MS. LEVANTINO: No objection.

Q. (By Mr. Gladden) All right.Now then, Mrs. Fisher, I hand you what has been previously identified as Plaintiffs Escalante Exhibit No. 16 and ask you if you can identify that?

A. Yes. These are copies of newspaper clippings from the Fort Worth Star-Telegram.

Q. They are for periods of time during 1972 and 1973 and shortly theretofore, is that correct?

A. That's correct.

Q. And these were compiled and selected by you, were they not?

A. Yes, there were.

Q. They were selected by you for the purpose of showing the general attitude as to racial differences within the District 32 area?

A. That's correct.

Q. And in that connection, you obtained certification from the Record Librarian of the Fort Worth Star-Telegram certifying that these are correct?

A. That's right.

MR. GLADDEN: We offer Plaintiffs Escalante Exhibit 16.

MS. LEVANTINO: We have no objection insofar as these were newspaper articles that appeared in the paper.

MR. GLADDEN: We offer these for the purposes of showing that these newspaper articles did appear in the Fort Worth Star-Telegram which is a daily newspaper of general circulation in the District 32 area and that these articles did,in fact, run in the newspaper on the dates shown therein.

MS. LEVANTINO: No objection.

Q. (By Mr. Gladden) I hand you what's been identified as Plaintiffs' Exhibit 17 and ask you if that's a group of newspaper clippings selected by you from the Fort Worth Press?

A. yes, it is.

Q. All right. And the Fort Worth Press is a newspaper of general circulation in the District 32 area, is it not?

A. Yes, it is.

Q. And it also is a daily, is it not?

A. Correct.

Q. In fact, the Fort Worth Star-Telegram and the Fort Worth Press are the only two daily newspapers of general circulation in the District 32 area?

A. That's right.

Q. Other than possibly the Dallas Morning News is kind of overlaid to the eastern portion of District 32?

A. (Nods head up and down.)

Q. All right. And those articles were selected by you for the purpose of showing the fact that there are racial differences in the District 32 area, were they not?

A. Yes, that's right.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibit 17 and ask the same stipulation as to the fact that these articles did, in fact, run in the newspapers on the dates therein shown.

MS. LEVANTINO: No objection.

Q. (By Mr. Gladden) Mrs. Fisher, in connection with your testimony, you've been around Tarrant County and Fort Worth for many years and been active.
Do you have an opinion as to whether or not a

candidate otherwise attractive to the community in terms of education, family background and what-not but who was black, do you have an opinion as to whether or not he could get elected in District 32?

A. Yes, I have an opinion, and I do not think that a black could get elected in District 32, regardless of what his qualifications were.

Q. And regardless of who he was running against?

A. Yes, I think regardless of who he's running against unless he was running against someone who had already been convicted of a felony.

Q. Do you share Mr. Sifford's conclusion that if Webber and Shannon had gotten in the run-off that Webber would have won?

A. I'm not sure he would have.

Q. You'll be present and available to testify at the time of this trial, will you not?

A. Yes.

MR. GLADDEN: We pass the witness.

EXAMINATION

BY MR. BONNER:

Q. One or two very quick questions, Mrs. Fischer.
Could you look through your exhibits and give me the spending figures on Webber and Schieffer again?

A. Yes. Mr.Schieffer spent $10,400.00.

Q. Mr. Webben spent twenty seven thousand---

A. Six hundred nineteen dollars and forty two cents.

Q. In other words, Mr. Webber spent almost three times as much as Mr. Schieffer, is that correct?

A. That's correct.

Q. I'm a little unclear as to the reason why you were unable to find any polarization of brown community votes. Would you explain that again?

A. Because there has not been the discrimination in housing for browns that there has been for blacks in this area. The browns are spread more across the District 32 lines, and there's just not that heavy concentration in any given census tract or any given precinct.

Q. What is the heaviest concentration of brown voters that you've found.

A. I would say it's in -- we only have two census tracts that have more than 75 percent brown.
But brownprecincts do not fall within the same lines that those census tracts do.
So when you try to look at election returns, you do not have the same numbers to go by.

Q. Let me see. The brown precincts don't fall within the census tract.
By brown precincts, you mean precincts that have what concentration of brown voters?

A. I doubt that there's any brown precincts that have

more than 75 percent brown in them and possibly only one that has that high a count. And this is only based on my experience from walking door to door in the brown and black precincts.

Q. Excuse me. I'm becoming even more unclear, which is probably my fault, I'm sure it's my fault.
I thought you said there were two census tracts that had 75 percent brown population.

A. Yes, that's right. But there is not a single brown precinct that falls solely within those census tracts.

Q. I see.

A. The precincts overlap into a census tract that has a high white population in them.

Q. Okay. And if you could look through your figures again and tell me what percentage of white votes the black candidates--three black candidates who ran in the Democratic Primary received?
I think you said Mr. Gaskin got about 20 percent of the white vote?

A. That's correct, he did get 20 percent.

Q. And you gave figures for Mr. Grays and Mr. Webber, also, I believe.

A. Mr. Grays got 27 percent of the white vote, Mr. Webber got 25 percent of the white vote.

Q. So that its range or effective range, thus far, of

black candidates who run in the Democratic primary for the white votes is 20 to 30 percent?

A. That's correct.

Q. Now, would you give me again the percentages that Mr. Grays and Mr.-well, the gentleman that got in the black precinct.

A. All right. Mr. Grays got 89 percent of the black vote in the black precincts; Mr. Webber 77 percent; and Mr. Gaskin 32 percent.

Q. All right. This is a fairly sharp drop for Mr. Gaskin. Do you have any idea as to why Mr. Gaskin failed to carry the black community?

A. I think primarily because he did not have endorsement of the Precinct Workers Council.
I think another thing that might have had something to do with it, he did not have the labor endorsement.

Q. Fine. Do you have the spending figures on Mr. Gaskin, by the way? I don't recall hearing those.

A. No. Those are not in--I have them in my records but we did not certify those figures.

Q. Okay.

A. We only took the figures that as many places in Tarrant County as we could get in single member districts and we did not find that one necessary.

Q. Mr. Gaskin was running against Mr. Willis, is that correct?

A. That's correct.

Q. Who did have the endorsement of the Labor Council and the Precinct Workers?

A. That's right.

Q. Is that correct?

A. Yes.

Q. And Mr. Willis was an incumbent, is that correct?

A. Yes, he was.

MR. GLADDEN: No.

THE WITNESS: No, he was not an incumbent in this race.

MR. GLADDEN: Excuse me for jumping in and testifying.

THE WITNESS: He was not an incumbent. He held office for about 20 years prior to this but he was not an incumbent.

Q. (By Mr. Bonner) State Senator, as I recall, was he not?

A. He ran for State Senate two years ago and lost so that made him a non-incumbent candidate this year.

Q. But wasn't Mr. Willis at one point a State Senator?

A. Yes, I believe he was.

Q. Back in the late '50's as I recall?

A. Yes.

MR. GEORGE: Excuse me. Off the record.

(off record discussion.)

MR. GEORGE: I have no questions.

MS. LEVANTINO: I have just one question.

EXAMINATION

BY MS. LEVANTINO:

Q. On the Exhibit, I believe it's here Exhibit 9 which is the selected precincts voting returns.

A. Yes.

Q. You were stating before that you were unable to find the Mexican-American polarization because there was not a high density within the census tract that were also within precinct lines.
Did you use the census tracts in determining these 19 black precincts for the Webber and Gaskin races?

A. Yes. There are several precinct--black precincts that fall either exactly within a census tract.
In other words, Precinct 120 is exactly the same as census tract 25.
Precinct 50 falls entirely within census tract 3.
Precinct 106 which I used is entirely within census tract 63.
Precinct 59 and 5 are both within census tract 31. So it was easy to find those in the black precincts.

Q. Okay. And you used that for the Webber and Gaskin race.
Now, in the Grays race in '68, did you use the census figures from the 1960 census at all?

A. No, I didn't. But I had--I relied on the fact that I'd walked those precincts and those are precincts that have been black, predominantly black ever since I've been working in politics in Tarrant County.

Q. When you say you walk them, does that mean in '68 or now, I mean, just recently for this particular --

A. I walked most of these precincts as many as three times last year during the voter registration campaign and the Governor's race.

Q. So it was within the last few years that you have -- or after 1968.

A. I average walking them at least twice a year every election year.

MS. LEVANTINO: Okay. Those are the only questions I have.

RE-EXAMINATION

BY MR. GLADDEN:

Q. Mrs. Fischer, in connection with that, just to clarify things, while you say that you use these census tracts in order to identify black people as shown on the Exhibit 1, when you're talking in terms of those selected precincts, I believe you said you used the census tract for that information.

Actually, you used your knowledge of the existence of black precinct chairmen, and with the exception of the two precincts that you mentioned, precincts 1 and 10, to determine both the Grays and the Gaskin and the Webber race, but you can relate that back to census tracts?

A. Yes, that's what I was saying.

Q. I see. But when you testified about the make-up and using and selecting these particular precincts, you did it on the basis of your knowledge of the make-up and ethnic make-up of these particular precincts is that correct?

A. Yes.

Q. But like you say, in Precinct 120 you can relate that to a specific census tract information?

A. That's correct.

Q. All right. Now, in connection with your awareness and familiarity with these particular precincts, you have identified yourself generally with the liberal community, have you not?

A. Yes.

Q. All right. And your efforts in connection with candidates, the most recent of which was McGovern and Farenthold I guess, and going back into the prior years you worked predominantly with liberal, labor and black precincts, is that correct?

A. That's correct.

Q. And do you have any recollection as to when you first went door to door either in a voter registration campaign or a campaign to get out to vote or in a campaign on behalf of a specific candidate, do you have a recollection in which you actually went into the black community for--

A. It's probably 1963 in the repeal of the poll tax campaign was the first time I did any door-knocking in the black community.

Q. All right. And have you, as you say, been in and out of the black community at least twice a year since then on either registration or get out to vote or campaign for a specific candidate?

A. Yes.

Q. All right. You've likewise been into the low economic areas that are not black?

A. Yes.

Q. You're as familiar with those as you are the black community?

A. Yes.

Q. And the brown community?

A. Yes.

MR. GEORGE: May I interject a couple of short questions here?

MR. GLADDEN: Sure.

EXAMINATION

BY MR. GEORGE:

Q. All your testimony about these exhibits and so-on show economic make-up of the community and voting results is based both upon the census information and other public documents which you've referred to and your experience of having actually walked door to door with a voter list in your hand and identified the people as to their ethnic and racial make-up of the various people you talked to in those precincts, is that correct?

A. Yes; with one exception; I don't carry voter's lists. I carry card file.

Q. You have an actual card file on people who are voters and live there?

A. Yes, sir.

Q. And you know who they are and you can identify them as either black or white or Spanish surname, Mexican-American ancestry?

A. Yes.

MR. GEORGE: That's all I have.

MR. GLADDEN: Let me get one more question in here.

RE-EXAMINATION

BY MR. GLADDEN:

Q. Except for those instances which you had a card file, you had voter registration blanks and applications on many of those instances, did you not?

A. Yes.

Q. In connection with that, in terms of the registration of black and brown people as well as low socio-economic people in Tarrant County, I'll ask you whether you're familiar with and know whether or not there has been some concerted effort on the part of labor, liberal, black, brown community to attempt to increase voter registration in those particular areas?

A. Yes. Since--especially since 1966 there's been a great effort in those communities to increase voter participation-registration.

Q. And in that connection, there has been a substantial increase in registration since the repeal of the poll tax or since the poll tax was declared unconstitutional in the black and brown and low-income communities of Tarrant County, is that not correct?

A. Yes.

MR. GLADDEN: All right. I believe that's all.

MR. BONNER: I have an off thought or two, also.

MR. GLADDEN: All right.

RE-EXAMINATION

BY MR, BONNER:

Q. Mrs. Fischer, you mentioned the disparity, I guess, between blacks and browns in terms of voter participation actually going to the polls and voting.

In your walks through and your efforts to register voters in the community, did you actually talk to the people about political attitudes and so forth?

A. Yes. I don't ask questions; I get some reactions.

Q. Yes. Did people indicate any sort of indifference to the electoral system in general, political process or what, what was the reaction?

A. There are two different reactions and they're quite different in the brown community and the black community. One thing in the brown community we have a language problem so it's much more difficult to get the brown community to register. In the black community I think our primary problem is just the feeling that it doesn't go any good; that they don't have a voice. If I can--I think one experience that I had probably sums it up better than any. I went into a house one day and registered two young women in their 30's. This was in 1968 in Precinct 80. They also registered for their husbands. An older woman came into the room and I offered to register her. And she said, "Register for what?" and I said, "So you can vote." The girl said to her mother, "Mother, you ought to register to vote," and the mother said, "I said, 'for what'?" The woman says, "We're going to elect a president this year. And the woman says, "It doesn't make any difference whether I register or whether

I vote. Those white people are going to do whatever they want to, anyway. And they're going to elect whoever they want to."

Q. This is with reference to the presidential election between Mr. Nixon and Mr. Humphrey, is that right?

A. At that time, we didn't even know who it was. This was in January of '68, prior to the Primary.

Q. All right. Now, you canvassed the community also for State offices, is that right?

A. Yes.

Q. In support of one candidate or another?

A. That's correct.

Q. Did you find a similar attitude among the people who were registered voters in terms of their enthusiasm for the election or their willingness to go to the polls and actually vote?

A. Yes. Probably not quite as much feeling there, but certainly some; that there is an attitude in, I think, all of our communities but predominantly it's worse in the black and brown community, that they just don't feel that their vote is worth that much.

Q. In other words, is it your opinion that the one explanation of the disparity between blacks and whites in terms of voter turn-out is a feeling of frustration or whatever, helplessness or whatever the word is on the part of the blacks? In other

words, the blacks, there is some feeling in the black community that you perceived that they really had little effective voice in the political affairs, their ballots are ineffective or something along those lines, or am I being too vague, asking too many questions too quickly?

A. No. I certainly think that it is my opinion that they feel like they have very little control over their destiny throug the ballot box at this time, and therefore, it's a job of persuasion to get them to participate.

MR. BONNER: Okay. Thank you.

MR. GLADDEN: Excuse me. One question.

RE-EXAMINATION

BY MR. GLADDEN:

Q. In connection with that, you identified these people as being in Precinct 80.

You didn't identify whether they were black or brown in connection with the two ladies and the older lady, too. All three of them were blacks?

A. All three of them were blacks.

MR. GEORGE: No questions.

MR. YORK: We haven't any re or rebuttal.

CHANGES AND/OR CORRECTIONS

PAGE	LINE	REASON

_____
BETTY J. FISCHER

STATE OF TEXAS

COUNTY OF_____

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this_____ day of November, 1973.

_____
Notary Public in and for
___ _____COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF TARRANT

I, Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, do hereby certify that the facts stated by me in the caption to and within the foregoing deposition are true; that said deposition was taken before me pursuant to the agreement of the parties; that the within named witness was duly sworn to testify the truth; that the questions asked and the answers given were taken by me and subsequently transcribed by me and reduced to typewriting by me or under my supervision, and that the within and foregoing typewritten pages constitute and contain a full, true, complete and correct transcript of all proceedings had.

I further certify that I am neither attorney for, related to nor regularly employed by any of the parties hereto, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, and that I am not in any way financially interested in the outcome of said proceedings.

TO CERTIFY WHICH, Witness my hand and seal at Fort Worth, Tarrant County, Texas, this_____ day of November, 1973.

_____
GAYLORD STURGESS - COURT REPORTER
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
NOTARY PUBLIC IN AND FOR
TARRANT COUNTY, TEXAS.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

FRANK ESCALANTE, ET AL	
VS.	NO. A-73-CA-115
MARK WHITE, ET AL	

ORAL DEPOSITION

OF

R. C. JOHNSON

ORAL ANSWERS AND DEPOSITION OF THE witness, R.C. Johnson, in answer to questions propounded to him in the above entitled and numbered cause, taken by the Plaintiffs before Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, in the Law Offices of Don Gladden,702 Burk Burnett Building, Fort Worth, Texas, on November 6, 1973, pursuant to the hereinafter set out Agreement of counsel:

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Austin, Texas 78701.....FOR MARK WHITE

R. JAMES GEORGE, JR. ESQ.
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INTERVENOR

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REPUBLICAN LEGAL COMMITTEE
AND TARRANT COUNTY REPUBLICAN
REDISTRICTING COMMITTEE

STIPULATION

IT IS STIPULATED AND AGREED by the parties to the above entitled and numbered cause, through their attorneys appearing herein, that the Oral Deposition of the within named witness may be taken at this time before Gaylord Sturgess, Official Court Reporter United States District Court for the Northern District of Texas, and a Notary Public in and for Tarrant County, Texas.

IT IS FURTHER STIPULATED AND AGREED that all formalities with reference to the taking and returning of said deposition are hereby waived except as to form of questions or responsiveness of answers; and that the witness may return and sign his deposition before any qualified Notary Public of the State of Texas.

IT IS FURTHER STIPULATED AND AGREED that the questions and answers so propounded and given, together with all other proceedings had, when transcribed by the Court Reporter, may be used in either or all of the cases pending herein by either party hereto, subject to such objections as could be made if the witness were on the stand testifying in person, without the necessity of filing written objections to any questions or answer, and without the necessity of making objections at the time of taking said deposition.

R. C. JOHNSON

called by the Plaintiffs, having first been duly sworn to testify the truth, the whole truth and nothing but the truty, testified as follows, to-wit:

EXAMINATION

BY MR. GLADDEN:

Q. State your name to the Court, please.

A. My name is R.C. Johnson.

Q. All right. Earlier we found out what J. W. Sifford's name was. Would you tell us what your initials are?

A. Raymond Charles.

Q. All right. Mr. Johnson, I'll ask you how long you've lived in the Fort Worth area?

A. Oh, approximately 20 years. I moved here in '53, I think.

Q. You moved to Fort Worth in 1953?

A. Right.

Q. Prior to that time, where did you live?

A. In Marshall in East Texas.

Q. In Marshall, Texas?

A. Yes.

Q. And I'll ask you what business or occupation you're engaged in?

A. I am an employee at General Motors, Arlington.

Q. All right. In that connection, for the record, you're of the Negro or black race, is that correct?

A. Right.

Q. All right. And how long have you been employed with General Motors?

A. Eighteen years.

Q. All right. What year would that put you going to work for General Motors?

A. 1955.

Q. All right. Have you been continuously employed with General Motors during that entire time?

A. Yes, I have.

Q. All right. Mr. Johnson, where do you reside?

A. 1406 East Richmond in Fort Worth.

Q. That's here in Fort Worth?

A. Right.

Q. And do you live at a particular voting precinct?

A. Yes; Precinct 90.

Q. All right. I'll ask you to state whether or not you are officer of the Democratic Party of Tarrant County?

A. Yes. I am Precinct Chairman, Precinct 90.

Q. And in that connection, that also makes you a member of the County Executive Committee, does it not?

A. Yes, it does.

Q. All right. Mr. Johnson, I'll ask you whether or not you belong to any labor union in connection with your employment at General Motors?

A. Yes. I am a member of the United Automobile Workers, Local 276.

Q. All right. I'll ask you also whether or not you're an officer of that local at the present time?

A. Yes, I am.

Q. What are you?

A. Second Vice-President.

Q. And I'll ask you whether or not you've been Trustee of the local on occasion?

A. Yes; four years.

Q. All right. You've been during the 18 years you've been pretty well acquainted with the membership of your union, have you not?

A. Yes, I have.

Q. How much or what size union membership is there in Local 276?

A. Approximately thirty four to thirty five hundred.

Q. Do you have your best estimate as to how many of those people are of ethnic minorities?

A. Around 25 or 30 percent, I should say.

Q. All right. Have you lived in the same general neighborhood as where you live presently during that full 18

year period?

A. Yes.

Q. All right. I'll ask you whether or not after your moving to Fort Worth in about 1953, whether or not you had occasion to become active in politics in--

A. Yes.

Q. 1953 is when you moved here?

A. Yes.

Q. All right. About when did you first become active in politics?

A. Somewhere around 1955 or 1956. I don't remember the exact year, but somewhere in that time.

Q. All right. What caused you or attracted you into the field of politics?

A. Well, there was a gentleman named Lawrence Ware who was active in politics in Precinct 73. And at the time he was deputized to register voters which was paying $1.75 at that time, and I asked him how did we go about being deputized and he taken me to the County Courthouse to be deputized.

Q. All right. In that connection, Mr. Ware was a black person, also, is that not correct?

A. Right.

Q. He was also employed at General Motors?

A. Right.

Q. And lived there in your neighborhood?

A. That's true.

Q. All right. For many years Mr. Ware was the black person in the Tarrant County community that registered more voters than anybody else,is that not correct?

A. That's true; that's true.

Q. All right. And you were a neighbor of his, is that not correct?

A. That's true.

Q. All right. And at that time you lived in Precinct 73, did you not?

A. That's right.

Q. And subsequent to that, you moved into Precinct 90?

A. Right.

Q. And ran for Precinct Chairman?

A. Right.

Q. Do you recall what year you were elected Precinct Chairman?

A. 1960.

Q. All right. Had you been Precinct Chairman of Precinct 90 continuously since 1960?

A. Yes, I have.

Q. All right. In addition to that, I'll ask you whether or not you're a member of the Community Action Agency Board?

A. Yes, sir.

Q. How long have you been a member of the Community Action Agency Board?

A. This is my second term there. I was elected in '69, I believe it was.

Q. In that connection, the Community Action Agency, when we talk about that, that is the agency through which Federal O.E.O. funds are distributed and spent in the community, is that correct?

A. That's true.

Q. And the structure of the C.A.A. Board is composed of certain representatives who are elected from the target areas or the low income areas themselves, is that correct?

A. That's right.

Q. Actually, elections are held in the community for these target area representatives?

A. Right.

Q. And you say you have just begun your second term. Were you appointed by a public official or were you elected in the target area?

A. I was elected.

Q. You're an elected target area representative on the Community Action Agency Board?

A. Right, yes.

Q. All right. Beginning 1953 or in about 1955 or

'56, I'll ask you whether or not you then became aware of and cognizant of various candidates for the Legislature in the Democratic Primary?

A. Yes.

Q. I'll ask you whether or not you're familiar with whether the ethnic make-up of candidates for the Legislature from, say, 1956 up to the present time?

A. Yes.

Q. Do you know how many of those candidates in the Democratic Primary were black?

A. Well, to my knowledge, here recently we've had three.

Q. All right. And that was in 1968 Charles Grays?

A. Yes.

Q. And in 1972 Jim Gaskin?

A. Jim Gaskin.

Q. And Bobby Webber?

A. Yes.

Q. All right. Do you know of any other candidate or black person that has sought the Democratic nomination for the Legislature in Tarrant County?

A. No.

Q. All right. Now then, I'll ask you whether or not you're also president of the Tarrant County Precinct Workers Council?

A. Yes, sir.

Q. Now, would you describe to the Court what the Tarrant County Precinct Workers Council is?

A. The Tarrant County Precinct Workers Council is an organization that basically is made up of black precinct chairmans and workers within each precinct.

Q. All right. And do you have in your own personal knowledge are you aware as to when the Precinct Workers Council was first organized?

A. It was organized sometime during 1953, I believe.

Q. All right. And it has remained in existence continuously since that time?

A. Yes.

Q. All right. And when did you become associated with it?

A. I became a regular member and regular in attendance during 1960. I became more active, I should say, in 1960, after I was elected Precinct Chairman.

Q. Actually, the Precinct Workers Council during the 50's comprised in terms of activity primarily the elected Democratic Precinct Chairmen who were black, is that correct?

A. That's true.

Q. Now, the Precinct Workers Council, though it is predominantly black, it actually has had some white membership

from time to time, is that correct?

A. Yes.

Q. Actually, liberal whites --

A. Yes.

Q. Okay. So during the 50's the leadership or the basic structure of the Precinct Workers Council was communication among the black precinct chairmen?

A. That's right.

Q. And I'll ask you whether or not you were aware that the Princinct Workers Council made recommendations and endorsement or supported either in a formal manner or informally candidates for the Legislature?

A. Yes.

Q. All right. Now then, up until 1958 the Precinct Workers Council of necessity were compelled to support white candidates?

A. Well, that's true.

Q. In every instance, is that correct?

A. That's true.

Q. Beginning in 1960, I'll ask you whether or not you, by reason of being a precinct chairman and taking a greater participation in the Precinct Workers Council, were aware of the slate-making process and the procedures that they followed as to how they ended up supporting particular candidates?

A. Yes.

Q. Would you tell the Court what the procedure was, whether it was formal, informal or the manner in which the Precinct Workers Council arrived at the support of any candidate?

A. Well, the Council during that time were mainly interested in candidates that were, how should I say, that had their interest more at heart, I should say. They would discuss candidates and try to arrive at a candidate that, as I said, that was probably concerned about the welfare of the black people in general.

Q. All right. In that connection, you were aware of, were you not, and if not, please tell me, the fact that the labor organizations in Tarrant County were also screening or considering candidates for the Legislative races?

A. That's true, that's true.

Q. All right. You were a member of the United Auto Workers during that period of time, were you not?

A. That's right.

Q. Were you as active with the UAW as you were the Precinct Workers Council?

A. That's true. I was real active with UAW.

Q. And consequently, were aware of their slate-making procedures and their selection procedures?

A. Right.

Q. Was there some kind of a formal

or informal effort on the part of the black Precinct Workers Council to work with or consider the same candidates that labor organizations in Tarrant County did?

A. Oh, yes, yes.

Q. Was it a formal type thing or was it just a sort of an understood informal type arrangement?

A. Well, at times there were formal arrangements, because my being involved with labor we always taken their advice or--

Q. Traditionally, the black community has voted with the labor community?

A. Right.

Q. Because you have the same common interests, is that correct?

A. Right.

Q. And there were times when there were expressed endorsements, other times it was just sort of understood that your strength was your coalition, is that correct?

A. That's true.

Q. All right. By the late 60's, had the Precinct Workers Council begun a procedure of actually screening and interviewing candidates at that time, if you recall?

A. Yes, we did.

Q. All right. Did you screen them separately or did you screen them along with the labor community or I'm thinking now prior to 1972?

A. Yes. We--at times we screened them separately and at times here recently we formed what was known as a coalition of blacks and PASO and labor.

Q. All right. Now then, from time to time the United Auto Workers was affiliated with the Tarrant County Central Labor Council?

A. Yes, that's true.

Q. I'll ask you whether or not you were ever a delegate from Local 276 to the Central Labor Council?

A. No, I was not a delegate but I did attend those meetings regularly.

Q. All right. I'll ask you whether or not any black from 276 was ever a delegate to the Central Labor Council?

A. No.

Q. All right. Now then, there is an organization of UAW since its withdrawal from the Central Labor Council known as what, CAP?

A. CAP.

Q. What does CAP stand for?

A. Community Action Program, I believe that's the way it is.

Q. All right. That's the political arm of the UAW?

A. Right, right.

Q. Have you ever been a delegate to it?

A. No, I have not.

Q. All right. It participates in the selection procedure now, does it not?

A. Right.

Q. Do you know whether or not a black has ever been a delegate to it from your local?

A. No.

Q. No there has not been?

A. Yes, sir.

Q. All right. Now, back to 1968 when Charles Grays was a candidate for the Legislature; do you know whether or not there was any express recruitment of Grays to run by anybody?

A. No, I don't

Q. Do you know whether or not there was any effort made on the part of anybody to direct him into any particular race?

A. No. Well, not really.

Q. All right. You're not aware of any prior committments by any of the labor organizations or Precinct Workers prior to the time that he filed?

A. (Shakes head from side to side.)

Q. You'll have to speak up. He may not have an answer.

A. No. I'll say no.

Q. All right. After his announcement --now, Grays was a member of the CWA?

A. Yes.

Q. Still is, I suppose?

A. Yes.

Q. That's Communications Workers of America?

A. Right.

Q. That's the union that represents the telephone employees?

A. That's right.

Q. All right. After he announced in 1968--you said you'd never been a member of the Central Labor Council or a delegate to the Central Labor Council, so you didn't participate in their endorsement of him as such, is that correct?

A, That's true.

Q. Did the Precinct Workers Council make endorsements in 1968?

A. Yes. They endorsed candidates in that particular year.

Q. All right. And did they endorse Charles Grays?

A. Yes.

Q. You're aware, also that the Central Labor Council endorsed Charles Grays?

A. That's correct.

Q. And that the other labor organizations in the community did endorse Charles Grays?

A. Yes.

Q. And Charles Grays fairly well got the black community vote, did he not?

A. Yes.

Q. As a matter of fact, he got about 88 percent of the black community vote?

A. That's right.

Q. Now, in the ethinc make-up of Tarrant County and particularly the black community, the precincts where there are black precinct chairmen are almost 100 percent black, are they not?

A. That's true.

Q. Your precinct is almost 100 percent black, is it not?

A. Yes, it is.

Q. And in those precincts where there is a high density of black population but not 100 percent, they're also in the same geographic location just right next to black precincts, is that not correct?

A. That's true.

Q. There is no widespread black dissemination in the community in terms of housing.

A. No.

Q. All right. Now, directing your attention to 1972, there was a joint screening process between the Precinct Workers Council, the political association of Spanish-Speaking

organizations, the United Auto Workers, the Central Labor Council and the Teamsters, was there not?

A. Yes.

Q. Did you participate in that screening process?

A. Yes, I did.

Q. As I understand it, it's been previously testified, if you'll confirm this, that there was no committment made by any organization going into this screening process that you were going to be bound by it but you were just going to jointly interview the candidates and then make an effort to support candidates at that point?

A. That's true.

Q. All right. Out of that screening procedure, I'll ask you whether or not each of those organizations ended up supporting the same slate of candidates?

A. Yes.

Q. All right. And I believe you previously testified that Jim Gaskin and Bobby Webber both were candidates in 1972 and were on the Democratic Party ballot--

A. Yes.

Q. --for the Primary for which this screening procedure was set up?

A. That's true.

Q. All right. I'll ask you whether or not this joint coalition endorsed either Webber or Gaskin?

A Endorsed Bobby Webber.

Q All right. And did not endorse Gaskin?

A Did not endorse Gaskin.

Q All right. And prior to 1972, following 1968 and Grays' loss, were you familiar with or aware of any blacks that were inclined to or thought they might like to run for the Legislature?

A Well, there was one guy that was named Williams, I can't recall what his first name is, he was thinking of it, somebody talked to him about it.

Q I see. But he didn't run?

A No.

Q Do you know Albert Mitchell?

A Yes.

Q All right. Albert Mitchell is a black out of the Machinists Union, is that correct?

A That's right.

Q I'll ask you, this is in 1969 or '70, is that correct?

A Right.

Q Following the '68 election?

A Right.

Q I'll ask you whether or not Albert Mitchell approached you and talked to you about running?

A Yes, he did. He talked with me about it.

Q Did you give him any encouragement? What did you say to him in response to his telling you he was thinking about running for the Legislature?

A Well, I tried to persuade him not to, really.

Q Why did you try to persuade him not to?

A Because I felt that he couldn't win.

Q All right. Did he approach you in that connection because you were president of the Precinct Workers Council and had some influence in the black community --

A Yes.

Q -- as far as voting is concerned?

A Yes.

Q All right. Do you know of any other blacks that approached you or talked to you about the possibility of running for the Legislature in 1970?

A No. I had talked with Richard Linton about it.

Q All right. Now then, in 1972, or in late '71 and early '72, I'll ask you to state whether or not you entertained the idea of whether or not you might run for the Legislature?

A Yes, I did.

Q And in that connection, I'll ask you what the first step was when you first started thinking about running for the Legislature, what did you do?

Q Well, I talked with various people that I met, had contact with, to solicit their support both financially and

any other way, you know, that I could get it.

Q All right. And what sort of a reaction did you get when you talked to those people?

A Well, they had sympathy for me but they just felt, you know, that I couldn't win.

Q Did they tell you why they didn't think you could win?

A Yes. They just felt that I couldn't get the support -- as a candidate running through county-wide I just couldn't get the support of the white race that I would have to have in order to win.

Q Did they tell you that because you were black that they felt like you couldn't win?

A That's very true.

Q Now, one of the people that you talked to was Mr. Jim Tharnel, is that correct?

A That's right.

Q And he's president of your local union?

A That's true.

Q Well, did he discourage you from running?

A Well, he sure did.

Q Did he just tell you that he didn't think you could win?

A That's true. He didn't think I would win. I talked with Garland Ham, also.

Q Garland Ham is the District 5 United Auto Worker political representative for about a five or six-State area, is that not correct?

A That's true.

Q Formerly out of Local 276 but now I guess he works out of St. Louis for the 5-State area?

A Right.

Q All right. Did Garland encourage you or discourage you?

A He discouraged me, really.

Q Was this again on -- what was his reasons for discouraging you, what did he tell you?

A Well, as I stated, he just felt that I couldn't get, you know, the votes to win because of the situation.

Q Because of your color?

A Yes.

Q All right. Did you go see J. W. Sifford or talk to J. W. Sifford?

A Well, I didn't talk to J. W. directly, but I talked with some people from his --

Q From the Central Labor Council?

A Right.

Q All right. Did they encourage or discourage you?

A They discouraged me.

Q All right. Did they, in fact, tell you they had a

white candidate that they felt had a better chance of winning than you?

A Well, that was it, that's true.

Q Did they tell you that?

A Yes, they told me that.

Q All right.

A As a matter of fact, when I first approached them, that's what they told me, you know, "We have a candidate that you know can win, you know, that we believe can win."

Q All right. They were talking about Charles Evans, is that correct?

A Charles Evans, right.

Q You were making inquiries about running specifically in the race that Evans was a candidate in?

A That's true, that's right.

Q And that was an open race, that was not an incumbent?

A That's true. That was an open race, it wasn't an incumbent.

Q All right. First of all, you're familiar with and have been familiar with the existence of racial differences in the Tarrant County community since you've lived here, have you not?

A Yes.

Q You're aware of in the 50's the housing conflicts

or publicity where black people moved into white communities?

A Right.

Q The swimming pool problems where blacks were going in and swimming in white swimming pools?

A Yes.

Q And most recently, has there been any conflicts or differences aired as to attitudes towards blacks and whites in Tarrant County or in the area?

A In the school integration problem, you know.

Q There has been a kind of continuing school integration problem since the mid-fifties since you got here?

A Right.

Q I guess it was going when you got here and it's still going?

A That's true.

Q The most recent was in 1972 when the Court entered a new order on busing, is that correct?

A That's true.

Q And there's been considerable publicity about it?

A Right.

Q And there's been polarization of views as to those who favored busing and those who did not?

A That's true.

Q And the news media have given a fairly accurate account of the degree of intensity of feelings with respect

to those who favor busing and those who don't is that not correct?

A That's true.

Q Do you have an opinion, based on your experience and your observations and activities as an elected delegate to the Community Action Agency from the black area and black precinct chairman and as a person who has participated in the United Auto Workers' political activities, as to whether or not a black can be elected to the Legislature in District 32 at the present time?

A No, I don't.

Q Do you have an opinion?

A Oh, I don't think that one could.

Q All right. You do have an opinion and your opinion is that one could not?

A Right.

Q Is this based upon your awareness of the votes that Webber got, Gaskin got and Grays got?

A Yes.

Q Is it also based on your awareness of the general demeanor and attitude of the community as a whole?

A That's true.

Q In that connection, Webber spent a bunch of money, didn't he?

A Yes, he did.

Q And Grays didn't spend a great deal, did he?

A No.

Q And they both got about the same percentage of white votes, did they not?

A That's true.

Q In connection with the election of candidates to the Democratic nomination, you're familiar with whether or not Republicans have ever elected anybody in Tarrant County, are you not, in the Legislative races?

A Yes.

Q They never have, have they?

A No.

Q The Democratic nominee has always won the general election?

A That's true.

Q All right. In connection with representation, I ask you whether or not in your opinion it would be in the best interest of the black community to have single member districts in Tarrant County?

A Definitely.

Q All right. I'll ask you whether or not you feel like the Tarrant County delegation has over the years been sympathetic to or not properly sympathetic to the needs and the interests of the black community?

A I don't think so. Even though we have supported

some candidates, but all the time that they have not been as sympathetic to our problems as we would liked for them to have been.

Q All right. After the Precinct Workers Council and the labor organizations have made their endorsements, they circulate information into the communities by various methods, is that right?

A That's true.

Q The Precinct Workers has on occasion made mailings into black precincts?

A Yes.

Q And by black precincts we're referring to those where you have black precinct chairmen or where it's almost 100 percent black, is that correct?

A That's true.

Q In addition to that, since they are geographically situated together, you've gone and utilized the door-to-door type campaign?

A That's true.

Q All right. I'll hand you what has previously been identified as Plaintiffs Escalante Exhibit 18-I and ask you if that is a slate card or a door-hanger which was put out and distributed by the Tarrant County Precinct Workers Council?

A Yes.

Q That is for the second primary of 1972, is that

correct?

A Yes, that's true.

Q That shows the candidate that your organization was supporting?

A That's right.

Q And it is identified as "Precinct Workers Council" by you as president, is that correct?

A Yes.

Q In addition to that, there's another slate card there that has the Precinct Workers Council printed on it.

Was that also circulated by the Precinct Workers Council in the black community?

A Yes.

Q This has been previously identified as Plaintiff Escalante's, et al, Exhibit 18-A. And that lists the candidates that your organization were supporting, is that correct?

A Yes.

Q Now, in addition to that, on the back of that card you see an inked in identification, do you not?

A Yes.

Q All right. The name "A. I. Harris" is written on that, is that not correct?

A Yes.

Q Now, that name was not printed on but was put on there, I assume, as identification. A. I. Harris is the

elected precinct chairman of Precinct 5, is she not?

A Yes. At that time she was president of the organization?

Q Oh, I see. She was?

A Yes.

Q She has been president of the Precinct Workers Council on occasion?

A Yes.

Q And that was distributed back in 1966?

A Yes.

Q For the Democratic Primary of that year?

A Yes.

MR. GLADDEN: I believe that's all.

EXAMINATION

BY MR. BONNER:

Q Okay. I have a few questions.

Mr. Johnson, you've outlined your political activities. Are you also involved in other groups in the black community, civil groups, for example?

A I -- such as church?

Q Church, yes. Are you affiliated with the church?

A Yes.

Q What church?

A St. James Baptist church.

Q Is that predominantly black congregation?

A Yes, it is.

Q In your day-to-day life you come into contact with a wide variety of people, is that correct?

A Yes.

Q You have occasions to converse with them about political matters and so forth?

A Yes.

Q And as a result of these conversations you've had, would you say that you are qualified to state to the Court what the general attitudes of the black community are with respect to political matters?

A Well, their attitude is one that says that they seem to feel at times that they're not adequately represented.

Q Okay. I was going to get to that.

But, in other words, you can give an opinion as to what the general attitude of the community is on any particular political issue under discussion, do you think?

A I think so, yes.

Q Okay. What, in your opinion, is the general community consensus as to the chances of a black person being elected under the present multi-member system to the State Legislature?

A They feel that it can't be done.

Q The community as a whole feels that a black person could not be elected to the State Legislature under the present

system?

A That's true.

Q Do you think the community has, in general again, some idea as to why a black person can't be elected?

A Well, because we only have approximately 20 or 25 percent black people here in Tarrant County. I think it's 20 percent, approximately 20 percent. And running a State or County-wide race, it's almost an impossibility.

Q Would you say that is because it's felt that a black candidate could not get a sufficient number of white votes to win?

A It has been proved in the past.

Q And a black community is too small to elect a black person of its own, is that right?

A That's right.

MR. BONNER: That's all.

EXAMINATION

BY MR. GEORGE:

Q I have a couple of questions. Excuse me.

I was out of the room when you came in, Mr. Johnson. My name is Jim George and I represent the Republican Plaintiffs in this lawsuit.

Are you familiar with a slate-making organization or informal group of businessmen that sometime is referred to as the Seventh Street group?

A Yes. I've heard a lot of talk about them.

MR. YORK: Ever hear anything good?

Q (By Mr. George) You testified, I believe, that you were both -- that you are now a Precinct Chairman?

A Yes.

Q In the Democratic Party?

A Yes.

Q Democratic Executive Committee?

A Yes. I'm on the Democratic Executive Committee.

Q And you were President of this group, Democratic Precinct Workers Council?

A Yes.

Q And have been active in that organization?

A Yes.

Q Have you personally ever been approached by a member or representative of this slate-making group, Seventh Street group, for a shorthand phrase, about your ideas about who should be nominated by the Democratic Party to the State Legislature?

A (Shakes head from side to side.)

Q Your answer is no?

A No.

Q Do these people who constitute this group of business leaders who put together the Seventh Street group slate regularly consult with any other black Precinct Chairman

workers about who they believe, to your knowledge?

A Not to my knowledge.

Q So even though you're an active Democratic worker, they have never contacted you?

A No, not the Seventh Street bunch.

Q Do they ever ask, based upon your knowledge of the black community and the factors you work within the community and have knowledge of the black community, ever asked you or any or to your knowledge any of the other people that work within the black community about their views on political matters?

A No. I don't recall -- not within our organization. Now, they might confer with some people outside of my organization that I don't have any knowledge of.

Q And am I correct that this Seventh Street group fields candidates in the Democratic Primary as part of the Democratic Party process?

A Well, this is what I've heard and observed.

Q Not to belabor, it, but finally, although they are part of the Democratic Party, they do not consult the black community to your knowledge?

A Not our organization.

Q Or any other Precinct Chairman?

A Not to my knowledge, no other Precinct Chairman.

Q Are there any blacks on the Democratic Executive

Committee who are not Precinct Chairmen?

A Not to my knowledge.

MR. GEORGE: That's all I have.

EXAMINATION

BY MS. LEVANTINO:

Q Mr. Johnson, you've worked with the Precinct Workers Council and also the AF of L and the various labor groups and you've observed from your testimony here both their methods of slating and screening candidates over the past few years, is that correct?

A Yes.

Q And it's my understanding that the labor people do do a certain amount of recruiting of candidates prior to -- in other words, talking to people that they might like to run that might represent their interests, is that accurate, in your opinion?

A Well, they have probably, as I testified a moment ago, I do know one, Charlie Evans, he was in the race. But --

Q Are you saying that he was encouraged by labor to enter that race because --

A Well, I don't know specifically whether he was encouraged by labor, but I do know when I approached them concerning myself that they said that he was in the race and that he probably could win.

Now, whether they encouraged him to do this, I just

couldn't say specifically that they did.

Q And this was prior to the filing deadline, of course?

A Right.

Q All right. Does the Precinct Workers Council do any recruiting in addition to slating?

A Well, no. Because, really, our effort has been that if we, you know, within our own precincts we just felt that it was more or less a waste of time to actually try to recruit somebody because it has been proven that we couldn't get enough votes and they didn't have the money either to make a county-wide race.

Q So you don't or the Precinct Workers Council doesn't really try and recruit blacks or whites that might represent their --

A No. In the screen process that the other person has filed for a position, we screen the candidates that has filed and try to select the one that, as I stated that is more favorably toward the views -- our views that would be -- that would support as much as possible the views of our people.

Q Okay. Do you generally do endorsements for all of the races, both Legislative, state-wide, Senatorial, local, county, judicial?

A Yes, we do in some instances, yes.

Q Can I ask you something about these slate cards

that may have been explained this morning?

On both 18-A and 18-I, specifically 18-I, there are -- does this represent the only races that were being voted on, on June 3rd of 1972? In other words, this is all that appeared? Obviously, there would be two names on there.

A Well, I don't recall. I don't think these were the only ones that were running, I don't think so.

Q So in other words, there are some races on there that are excluded from the endorsement?

A I think perhaps so.

Q But generally you would cover all the races in your endorsements?

A As I stated, we try to -- we endorse people whom we feel that we can get support from, you know.

It wouldn't do us too much good to support somebody that, you know, that's going to do what they want to do anyway.

Q In other words, in determining what races you're going to get involved in, you're more concerned with just endorsing those people that would vote as you would hope they would to represent your interests rather than to have some guidance to someone in each race?

A Well, I think this is what this is.

Q Okay. So you did in '72 endorse Charles Evans, of course, Bobby Webber, for the State Legislature and back in

'66 Don Gladden, David Finney, Gordon Gray, Joe Shannon, Jr., Dean Butler, or Larry Meeker, either one, of which some of those people did succeed in being finally elected is that true?

A Yes.

Q. Okay. You mentioned in response to Mr. Gladden's question a minute ago that you have endorsed some of these people that are presently within the Legislative delegation and some people that have been in the delegation in the past.

Have you been generally satisfied with their representation of your interests that you had hoped to encourage by your endorsement?

A. I would have to say no, to some we have not been entirely satisfied.

Q. Can you give me some specifics?

MR. YORK: anybody in this room, for instance?

MR. GLADDEN. Go ahead and tell him how good I was.

THE WITNESS: You said specifics?

Q (By Ms. Levantino) Like on specific issues and votes. We'll just take this Legislative Session and that delegation you've had this last time.

A Well, I'm trying to -- as you know, when you talk about the minimum wage and taxes and all, this tends to hurt poor people most, and sometimes in a delegation we have people who will vote against the minimum wage bill. We feel this is something that we must have because of the price of everything is

going up and where the poor person is out here laboring trying to make a living and here you have a Representative here that voted against getting an increase in pay in order to keep up with the rising prices of everything.

Q. Okay. Any other area besides minimum wage that you can, a specific bill?

A. I'm trying to think here. I mentioned taxes. Of course, you know, that's real important with, you know, poor people, taxes.

Q. Do you think taxes are unique or concern about rising taxes is unique to either the poor or the black community in this State?

A I didn't

Q. Do you think that concern about rising taxes is unique to either the poor or the black in this State?

A Well, sure.

Q As opposed to the white or middle-class?

A Well, it might not affect them as much because they're making more money.

Q Okay. Any other issues?

A I'm sorry. At this time I can't -- I'm sure there are more but I can't recall at this time because-- I can't think of any at this time but I'm sure there are more.

Q. All right. Have you been generally satisfied with the people who you specifically or one of the persons that you

specifically endorsed on the January 3rd ballot, Charles Evans, who I believe is the only one that was successful of the two you endorsed, with his voting record on the issues?

A No. Personally, I'm not, no.

Q Okay. Does your group dc a tally at the end of a session evaluating not only the delegation as a whole's representation of your interests but also specifically those for whom you gave support?

A Well, we keep check on them. We try to do this by keeping up with the issues that are before the Legislature, and we talk about these things and try to keep tab on just how a person voted so we'll know when the next time comes around if they want our endorsement whether we should give it to them or not.

Q. Okay. Now, the Tarrant County Legislative Delegation does have a number of incumbents in it now that have served there for a number of years.

Are there any of those incumbents that you endorsed or that your group endorsed at one time and then decided not to endorse in their subsequent bid for re-election?

A. I'm sure they have but I can't recall just who they were at this particular time.

MS. LEVANTINO: Okay. That's all. Thank you.

MR. YORK: I'd still like to find out how Mr. Gladden did when he was running.

(Off record discussion)

RE-EXAMINATION

BY MR. GLADDEN:

Q. Mr. Johnson, in connection with the process of candidate selection, I believe it's your testimony that the Precinct Workers Council has never recruited candidates for the Legislature, is that correct?

A. Yes.

Q. All right. As a matter of fact, if you went out and tried to attract somebody into the Legislature offering only the support of the Precinct Workers Council, that would be sort of a futile effort, would it not?

A. That's true.

Q. If the 19 black precincts, or 17 black precinct chairmen collectively went to a black person and said, "We'd like to have you run for the Legislature and if you run for the Legislature we, the Precinct Workers Council and the 17 black members of the Tarrant County Democratic Executive Committee, offer you our total support," would that really have much weight?

A. No.

Q. Would that be very persuasive to an aware young black person who might offer himself as a candidate for the Legislature?

A. No.

Q. All right. Does the Tarrant County Precinct-- if you'll speak up so he can get it.

A. All right, I will.

Q. Does the Tarrant County Precinct Workers Council have a great deal of money to offer a prospective or a recruited candidate for the Legislature?

A. No.

Q. All right. In that connection, Bobby Webber entered the race without endorsement of the Precinct Workers Council, is that correct, when he first got in he didn't have their support?

A. That's true, that's true.

Q. All right. And the money he spent, the $27,000.00 he spent came from some place other than the Precinct Workers Council?

A. That's right.

Q. If I'm going to testify, I'd like to get my answers out before you say yes.

Anyway, Bobby Webber is in the funeral and nursing home business, is that not correct?

A. Yes.

Q. In that connection, he is wealthier than most blacks?

A. Yes.

Q. And he's spent a great deal of his own money in the

A. Yes, he did.

Q. And also any other monies that he got was primarily outside the black community, was it not?

A. Yes.

Q. All right. Now, in connection with the issues and your awareness in keeping up with the people that you elect to the Legislature, you rely a great deal on what information you get back through the labor union records, do you not?

A. That's true.

Q. The Precinct Workers Council do not maintain a paid lobbyist or are not affiliated with anybody in Austin who sits down there and watches how your members vote, are they?

A. No.

Q. All right. The Labor Councils are?

A. Yes, sir.

Q. So when issues of economic interest to working people are presented, the Labor Council acquaints you with how your representatives vote?

A. Well, that's true, yes.

Q. All right. When you made reference to taxes awhile ago, you're satisfied everybody is concerned about taxes?

A. Right.

Q. But the nature and the type of taxes are of importance to the black community, are they not?

A. Well, that's true.

Q. And items such as sales taxes which are regressive, as I say the manner in which it hits the various economic levels is of importance, is it not?

A. That's true.

Q. And you keep up through the labor Councils with how your elected representatives vote on matters such as sales taxes versus corporate income taxes?

A. Right.

Q. And it's based on this information that you coalesce with them in supporting candidates?

A. Right, that's true.

Q. All right. Now, to the question about, when I was in the Legislature, did you have any quarrel with the way-- with my representation?

A. No, I would say that I think that you perhaps are the only candidate that we endorsed each time, that we decided to.

Q. Do you think as to single member districts, do you think that it would be just as well or maybe a little bit better if you had a black representative down there to vote for issues of your community interests rather than to have to rely upon the goodness of a white candidate that got elected state--district wide?

A. Sure, it would be best.

Q. Do you feel like a person that was elected from

your community and of the socio-economic background that could attract the black community's votes would be more calculated to be responsive to and aware of your needs than somebody who lived over in Eastern Hills--

A. Yes.

Q. -- that might not cast a vote your direction?

A. Yes.

MS. LEVANTINO: Two questions.

MR. GLADDEN: Okay, I'll quit and you can have it.

MS. LEVANTINO: I'm sorry. Were you through?

MR. GLADDEN: I'm through

RE-EXAMINATION

BY MS. LEVANTINO:

Q. Really, this is just kind of a point of inquiry.

When I was talking to you a minute ago I was asking you if there were other races in here. Were there other slate cards that y'all have issued, too, or does this represent all the slate cards you've ever issued?

A. Just these right here?

Q. Yes.

A. I'm sure there's -- we have issued more slate cards. Probably--I tried to find some. I'm sure we have.

Q. Would it be at all possible to get ahold of some of the other slate cards?

MR. GLADDEN: I think we could. First of all,

most of the precinct chairmen sometimes keep files, do they not, and what-not?

THE WITNESS: Yes.

MR. GLADDEN: You weren't asked until last night to locate some?

THE WITNESS: I'm sure I have some but--

MR. GLADDEN: Okay. If you would locate those and furnish them to the Court Reporter, would you be willing to do that?

THE WITNESS: Sure.

MR. GLADDEN: All right. And see if you can get as many for as many years as you can?

THE WITNESS: I sure will.

Q. (By Ms. Levantino) And would you also--you weren't here this morning, but in the case--on some of these slate cards it's a little difficult to tell exactly what year it's for. I mean, if you would, just mark like "1972 Democratic Primary" or something like that.

MR. COLLINS: It is on the exhibit list.

MS. LEVANTINO: I was just talking about the ones that he's bringing in.

Q. (By Ms. Levantino) I just have one other question that I missed a minute ago.

You said that you had talked with Mr. Mitchell or he has asked you if you thought he would have any chance to win.

Have you ever talked to anyone else about not--has anyone else ever approached you about whether or not they should run for a Legislative race, white or black?

A. I think I mentioned Bobby Williams. When I said Bobby, I don't know what his first name is, but Williams, and I talked with Richard Linton, but this was just casually talking.

But Mitchelll was really wanting to get into the race.

Q. There was really never anyone else that you, in semi or relatively serious fashion advised as to whether or not they should get into a race?

A. No.

Q. At any level, even outside of--

A. No.

MS. LEVANTINO: Okay. That's all

RE-EXAMINATION

By Mr. Bonner:

Q. I have a couple of short questions.

Mr. Johnson, based on your political awareness, do you think a Legislator represents his community by simply casting votes on issues that are presented to the Chamber or do you think a Legislator who represents his community might be expected to bring up certain issues, to draft and present bills to the Legislature?

A Yes, sir. I think that's part of -- I mentioned voting as, you know, one way of getting something passed, but I definitely think that he ought to be -- write bills, bring up bills, introduce bills just as anybody else.

Q And you think that a good Legislator, one who effectively represents his community, in other words doesn't merely sit back and vote yea or nay on a matter but occasionally will present or introduce a bill that is, you know, of interest to or benefits his community?

A Well, certainly.

Q In addition to, I think you mentioned taxes and minimum wage, would you think that housing discrimination is a matter that is of particular interest to the black community?

A Why, certainly. I couldn't, you know -- those were the two that came to my mind.

Q No. That's all right. I know you can't think of everything. I'm just simply throwing out a couple of things.

Would you think that employment discrimination is an issue that would be of particular interest in the black community?

A Well, I'm sure it would be, sure.

Q You know, more interest to the black community than to the community at large?

A Right.

Q Do you recall whether or not any member of the

Tarrant County delegation has ever introduced a bill dealing with housing discrimination?

A Not to my recollection, not that I know of.

Q All right. How about employment discrimination?

A I can't recall.

Q In addition to those two particular areas of interest, would you say that the areas of prison reform might be of some interest to the black community?

A I am sure.

Q Since a large percentage of the inmate population is from the black community?

A I am sure.

Q And would you say the welfare reform might also be of interest to the black community?

A I believe so.

Q Based on your familiarity with the voting records of the Tarrant County delegations in the past, well, during your stay here, how would you rate them as voting on the issues of prison reform and welfare reform when they have come up?

A I would have to rate it very low because I don't know any that really has voted for anything of that nature.

Q Okay. One last point, Mr. Johnson: what is the approximate voter registration in your precinct?

A In my precinct?

Q Yes. How many registered --

A Twenty one hundred and ninety three.

Q What is the largest number you were ever able to turn out for an election?

A I think that was probably eighteen, seventeen, eighteen hundred in the presidential election.

Q During the presidential election. How about for Legislative election, Democratic Primary?

A It's not really good during just a regular Legislature.

Q Could you give us a ball park figure?

A Oh, probably five or six hundred.

Q Approximately 25 percent?

A Yes.

Q How do you account for that low voter turnout in your precinct?

A Well, let me say that most black people feel that presidential elections are the only important elections to them because of the fact that your State Representatives they feel that is not going to help them very much, you know, as it stands -- as it is now. They just feel like maybe it's a waste of time to even --

Q Would you say that they feel that the people sent to the Legislature are not going to help them or --

A Well, I would say this probably is the general feeling among them.

Like I say, they feel the presidential election is the most important election and straight representatives are -- doesn't --

Q They attach no importance?

A Right.

Q Do you think that's based to some extent on the performance that they have seen out of the State Legislators or what?

A Well, it would appear to me that it's because of the fact that some of the State Legislators have not been -- have not voted in their best interests, has not represented them in the way that they perhaps wanted them to.

Q By dealing with some of the issues, some of the few issues that we just have sort of gone through here?

A Right.

MR. BONNER: Thank you, Mr. Johnson.

RE-EXAMINATION

BY MR. GLADDEN:

Q First of all, was it Mr. Burt Williams, perhaps, that approached you about the prospect of running for the Legislature, or do you know?

A Not -- I don't recall him approaching me, no.

Q It was somebody else?

A It was another guy that worked for General Motors.

Q All right. Now then, with regard to the Seventh

Street crowd, I'll ask you if you're acquainted with Mr. Garrett Morris?

A Yes.

Q Mr. Garrett Morris is also a member of the Community Action Agency and serves with you?

A Right.

Q He wasn't elected from one of the target areas, was he?

A No.

Q Mr. Morris was at one time the president of the Morris Plan Life Insurance Company, was he not?

A That's true.

Q And in that connection he was also a conservative Democratic Precinct Chairman of Precinct 105 for many years?

A Right.

Q And he was also State Highway Commission at one time?

A Right.

Q And is presently on the Public Welfare Commission of Texas?

A Yes.

Q All right. Did Mr, Morris ever approach you and solicit you and try to recruit you to run for the Legislature?

A No.

Q Did you talk to him in connection with the prospects

of you running for the Legislature in 1972, if you recall?

A I did mention it to him, yes.

Q He didn't grab you around the neck and say, "Gosh, I sure wish you'd run," did he?

A No.

Q Did he give you any encouragement at all?

A No.

Q All right. Now then, back in 1959 there was a bill that was introduced by a member of the Legislature from Tarrant County to repeal that law which has been placed on the books in '57 that required a local option election before any school district could direct or could allow blacks to go to school with white kids.

A Right.

Q And other than that initiated legislation by that member of the Legislature in '59, can you think of any other legislation that has been offered?

A No.

Q Before or since that a person who was elected from a predominantly black constituency would have initiated?

A No.

Q In other words, while members of the Legislature may vote with you on issues that are presented to the Legislature, can you think of anything other than when I introduced that bill where a member of the House of Representatives went

out in an effort to intiate legislation that was solely directed toward alleviating a black problem?

A No.

(Off record discussion.)

RE-EXAMINATION

BY MS. LEVANTINO:

Q Let me ask just one more question: you indicated that you have approximately 2100 registered voters in your precinct and can get out about 1800 for a presidential election but on a Legislative race maybe 500, is that correct?

A Something like that, yes.

Q You also indicated that this was because they just didn't feel that there was any reason for them to vote on a multi-member system?

A This is to my knowledge, that's right.

Q Are you aware of any change or significant increase in voter turn-out or voter registration in Dallas, Bexar or Harris Counties, especially in those areas which are designated as black districts or have elected blacks from them or in which blacks have been candidates in those single member districts?

A I'm really not too familiar with those counties. I do know they have black representatives, but the voter turnout, et cetera, I'm not familiar with.

MS. LEVANTINO: Okay, thank you.

RE-EXAMINATION

BY MR. GLADDEN:

Q I have a question along that line, since you brought that up.

It's been previously testified that the turn-out in the black precincts was 27 percent in the Webber-Schieffer race.

In the event that the black community had two black candidates running from a predominantly black constituency, do you have an opinion as to whether or not there would be an increase in voter turn-out where the black community was going to select one of two blacks that were offering themselves for the Democratic nomination and that by reason of the black constituency were calculated to select one of the two of them?

A Yes. I believe that they would be.

Q You think there would be a greater turn-out?

A A greater turn-out.

MR. GLADDEN: Okay. I believe that's all.

MS. LEVANTINO: I'm through.

CHANGES AND/OR CORRECTIONS

PAGE	LINE	REASON

R. C. JOHNSON

STATE OF TEXAS

COUNTY OF _____

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this _____ day of November, 1973.

Notary Public in and for _____ County, Texas.

STATE OF TEXAS

COUNTY OF TARRANT

I, Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, do hereby certify that the facts stated by me in the caption to the within and foregoing deposition are true; that said deposition was taken before me pursuant to the agreement of the parties; that the within named witness was duly sworn to testify the truth; that the questions asked and the answers given were taken by me and subsequently transcribed by me and reduced to typewriting by me or under my supervision, and that the within and foregoing typewritten pages constitute and contain a full, true, complete and correct transcript of all proceedings had.

I further certify that I am neither attorney for, related to nor regularly employed by any of the parties hereto, and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, and that I am not in any way financially interested in the outcome of said proceedings.

TO CERTIFY WHICH, Witness my hand and seal at Fort Worth, Tarrant County, Texas, this _____ day of November, 1973.

GAYLORD STURGESS - COURT REPORTER
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
NOTARY PUBLIC IN AND FOR
TARRANT COUNTY, TEXAS.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL. vs. BEN BARNES, ET AL.	CIVIL ACTION NO. A-71-CA-142
DIANA REGESTER, ET AL. vs. BOB BULLOCK, ET AL.	CIVIL ACTION NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL. vs. PRESTON SMITH, ET AL.	CIVIL ACTION NO. A-71-CA-144
VAN HENRY ARCHER vs. PRESTON SMITH, ET AL.	CIVIL ACTION NO. A-71-CA-145
FRANK A. ESCALANTE, ET AL vs. MARK WHITE, ET AL.	CIVIL ACTION NO. A-73-CA-115
JAMES GASKIN, ET AL. vs. MARK WHITE, ET AL.	CIVIL ACTION NO. A-73-CA-146
WANDA L. CHAPMAN, ET AL. vs. MARK W. WHITE, JR., ET AL.	CIVIL ACTION NO. A-73-CA-155

ORAL ANSWER and DEPOSITION of GEORGE A. MCALMON, who resides in El Paso County, Texas, in answer to questions propounded to him in the above entitled and numbered cause, taken at the request of the Mexican American Legal Defense and Educational Fund, before Sharon Rasberry, Certified Court Reporter in and for El Paso County, Texas, in Suite 508, Southwest National Bank Building, on the twentieth day of November, A.D., 1973, at the hour of 2:30 o'clock p.m., in accordance with the following Agreement of Counsel:

APPEARANCES:

GEORGE J. KORBEL, ESQ.,
Appearing on behalf of the Mexican-American Legal Defense and Educational Fund;

R. JAMES GEORGE, ESQ.,
Appearing on behalf of Plaintiff George, Willeford and Plaintiff Intervenor Franklin Sears, et al;

THOMAS BLACK, ESQ., and ELIZABETH B. LEVATINO, ESQ.,
Appearing on behalf of the State of Texas.

MR. KORBEL: I take it that it's stipulated that this deposition is taken pursuant to the order of the Court on discovery and that all objections that will be made are made now and this will be offered into testimony without the presence of the witness.

MR. BLACK: That's fine with me. You mean objections as to form and substance?

MR. KORBEL: Form and substance. Okay. The record should further reflect that this deposition is being taken pursuant to stipulation of parties and all objections as to notice and those type objections are waived, I trust.

MR. BLACK: Uh huh.

MR. KORBEL: Okay. Off the record.

(OFF THE RECORD.)

MR. KORBEL: We won't waive signing.

MR. GEORGE: Before any notary. Stipulated it can be signed before any notary.

GEORGE A. MCALMON

having been first duly sworn by Sharon Rasberry, Certified Court Reporter, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. KORBEL:

Q Okay. Would you state your full name for the record, please?

A George A. McAlmon.
Q And what's your occupation, Mr. McAlmon?
A Attorney.
Q And where do you live?
A 2001 North Kansas Street.
Q Is that in El Paso County?
A It is.
Q And is that in the El Paso County multi-member district?
A Yes.
Q How long have you lived in El Paso County?
A Well, I've lived here all my life, forty-seven years.
Q Okay. Can you sketch for us briefly your political experience in El Paso County?
A Well, -- of course, I've been a voter since I was twenty-one and have followed the politics in the county since I was that age. More recently, in 1968, I was elected Democratic County Chairman and was re-elected in 1970; so, I had four years in that particular office, and have been active -- I have been active in handling the Democratic functions and then in addition to that, why, I have actively supported a number of other candidates before I was in office and after I was in office.
Q And have you been active in precinct work and voter registration drives and that type of thing?
A Yes.

Q Would it be fair to say, then, in your duties as County Chairman and in your political experiences before and after you've been County Chairman that you have had an opportunity to observe elections in the county, both from smaller or single-member districts and from the large multi-member districts?
A Yes.
Q Would you describe El Paso County as a two-party county?
A I would say that -- that as far as county, local and State candidates are concerned, it is certainly not a two-party county. It's the -- in the -- from time to time, a Republican presidential candidate will draw a majority vote in this county, but I'm unaware of any -- personally unaware of any candidate that has run as a Republican that has ever won in El Paso County at any time since reconstruction days.
Q Are you aware of the percentage of the population of El Paso County which is Mexican-American?
A In general terms, I think it's approximately fifty-eight percent.
Q And the black percentage?
A Black percentage, we believe the black is somewhere about three percent.
Q I see. Do Mexican-Americans account for fifty-seven percent -- fifty-eight percent of the registered voters in

the county?

A No, and this is usually determinable by a count of the Spanish surnames in the voter registration lists and the -- heretofore, it hasn't been this good, but the best ever was last year, 1972, and I believe our count just before the Democratic primary in about March or April of last year showed a thirty-eight percent Spanish surname registration on the list of registered voters in El Paso County.

Q Is there any way to determine what the percentage of black voters --

A We've -- we have no way of -- I have no way of doing that, it's just guesswork.

Q Okay. Do you have any idea or any conception of what that would be?

A Well, I do know --

MR. BLACK: I'm going to object to that as being speculative.

A I would have only an opinion on that subject. No actual counts made, but the -- our opinion would be that the blacks may be rather intensively registered. They have community leaders that work pretty hard at that.

Q Do you know why there's a great discrepancy between the percentage of the Mexican-American population and the percentage that's registered to vote?

A Well, as I said, historically, this is a high point in

Spanish surname registration in El Paso County, that is the thirty-eight percent figure. In prior years, let's go back to the poll tax days, the registration at that time was probably in the -- maybe the twenty-percent range or even less than that from time to time. You see, it was an annual registration and it took the payment of a poll tax and all of the other procedures that went with getting on the voter lists, and with the change in the -- with the court decisions outlawing the poll tax and then with the recent changes in law, it is easier for Mexican-Americans to register to vote, but there is still a carry-over. There are a variety of reasons. The -- one of the primary, of course, is that they have not developed a habit of registering to vote and this is a carry-over from the days when the poll tax obligations and the restrictions kept them from the voter registration lists in large part; and so, they don't have the habit of registration. Again, in great part, the Spanish or the Mexican-Americans in El Paso County are in your lowest income levels. These are the workers, and their dependence and their day to day preoccupations are in survival or in earning a living, earning wages and taking care of their children and taking care of their families and they have some very fundamental needs and necessities that -- and it takes an exceptional person in that area to keep an active interest in political matters. Then again, of course,

even with the change in law, it takes an extra effort for a working man and woman to go through the even improved process, the simplified process, under the new law, let's say, that it takes to go to the courthouse and so forth to register to vote. There's a language factor. Most of these -- I would say that almost all Mexican-Americans in El Paso speak Spanish. A large percentage also speak English to one degree or another, but the fact that they speak -- some speak relatively poor English and do not read English very well limits their participation and interest in political -- in the political area. And all of these add up to a limited registration of Mexican-Americans in El Paso County.

Q After the statutes on the poll tax and the filing fees and that type of thing were declared unconstitutional, were any roadblocks placed in the way of Mexican-American voter registration -- did you -- strike that.

A Well, I would say that --

Q Let the question stand.

A In reply to that question, I would say that there were obstacles placed in the path of registration.

Q Can you describe some of those?

A But in addition to that, why, there was certainly, among the Anglo community, there certainly was no assistance given to them to register to vote. I would say that -- well,

my personal experience is -- was in -- has been in a number of voter registration drives in 1968, '69, '70, '71 and '72, and these were intensive efforts to one degree or another and we found that the County Tax Assessor's Office, for instance, we believe, responsive to certain Anglo portions of the community, may have gone out of their way to make it difficult for the residents of the southside of town, who are primarily your Mexican-Americans, to register to vote. These were little things, but significant things, for instance, in 1968, I believe, we were extremely limited -- no, I believe it was 1969, we were extremely limited in the number of deputies that were authorized to go out and register voters, and we had a great deal of trouble in getting folks deputized. And then there was the question of the release of the voter registration books and, overall, why, it was an accumulation of these small factors, I believe, had its effect and took its toll in limiting numbers of Mexican-American registrants to vote in El Paso County.

Q Did the voter registration office ever require a person to appear in person to register to vote?

A Yes, and then, I believe, in 1970, I believe, there was a switch over to the card system and the attitude of the County Tax Assessor's Office at that time in that year was that the registrant had to appear in person in the County Tax Assessor's Office to register or that the registrant

had to mail his card in, which would mean that, if anybody was interested -- any interested group, that would go and, for instance, set up a table in front of a church, a Catholic church or other kind of church in the Mexican-American community and suggest to people that they register and participate in elections, of course, this was nonpolitical activity, all they were doing was urging people to register to vote, and it would mean, then, that if this -- that they could hand the cards out to the passersby, but if -- that there was no means to carry the cards into the County Tax Assessor's Office and under the policy that was imposed, the cards could only be mailed in; well, at that time, I believe a stamp was five cents; so, it cost an extra five cents to mail these cards in. Now, after a number of months, and the threat of lawsuits and other protests, why, the Tax Assessor and Collector's Office reversed its policy and after that permitted the cards to be hand-carried in group by a deputy appointed by the office.

Q Were these cards required to be sent in singly or could they be sent in together?

A Well, initially, they were required to be sent in -- mailed in singly.

Q They couldn't be grouped together and mailed in together, they had to be in separate envelopes, is that right?

A Well, I think there was -- oh, I know what, we had to --

in fact, what we had to do to avoid that exact problem, I'm glad you mentioned that, was, we had to have the voter registration card printed up at our own expense and, with the reverse side of it made into a post card type of card so that we wouldn't have to put them in an envelope and we did that at our own expense. We had problems with that County Tax Assessor and Collector's Office because they wouldn't give us enough cards to take out and give to people so they could register; so, we had to go to the expense of furnishing these cards ourselves; so, there has been a great deal of problems in assisting Mexican-Americans in El Paso County to register to vote.

Q Do any of the large-local employers present difficulties or roadblocks in the way of voter registration?

A Well, during the voter registration campaign, why, we are interested in seeing anybody from any part of town register to vote. This is a primary part of the democratic process, as we all know, and we have been -- our -- there's a variety of groups that work after this and their political affiliations are also varied, but in this, why, we can all join together and work together in getting people registered to vote. Now, part of our -- some of the groups will set up in post offices, some of them will set up outside of churches, in stores and shopping center malls and so forth. Annually, for several years, for a number of years, we have

had groups that have offered to go into some of the factories in town to register workers during their breaks, lunch hours, before work and after work and at no expense to the employer and never with -- and it being well understood that no worker would be bothered on the job. I know that one, the largest employer in town, has consistently refused to permit us to do that and the name of that company is the Farah Manufacturing Company and the -- that company is proud of the fact that most of its employees are citizens of the United States and are able to vote and presumably reside in El Paso County and they have refused to let us. These are mostly Mexican-Americans, by mostly, I would say in the range of ninety-eight percent Mexican-Americans and the management has refused us permission. Presumably, there seems to be no motivation except that the management is not interested in seeing these people vote, the only explanation that we have.

Q In the highly concentrated Anglo precincts, what'd the percentage of voter registration be, of eligible voters?

A We believe it is in the range of sixty-five to seventy percent.

Q Turning now to an election-day turnout in the Mexican-American areas, what percentage of the registered voters turn out for an average Democratic primary?

A This again is another problem. After the folks,

Mexican-Americans, are registered, why then, to urge them and obtain their participation in the voting process is another hurdle and, on an average -- on an average day, during the Democratic primary, which creates a good bit of interest, I'd say about thirty-five percent turnout is about average. An absolutely exceptional turnout that can be obtained when there's a hotly contested race plus a great effort, maybe in the nature of a door-to-door effort to get voters to participate and to vote, might generate in the range of forty-five to fifty percent turnout; on the other hand, in a reverse situation, particularly in school-board races and things of that kind, the voter turnout can drop as low as ten percent.

Q Now, what about -- that's in the primary itself, what about in runoff elections?

A Runoff elections invariably, in the southside, which is the Mexican-American and the poor area of town, the voter turnout is always substantially lower than in the primary election and can go down to twenty percent or less.

Q Can you contrast the turnout in the northside or Anglo areas?

A The turnout is consistantly very high relative in the El Paso environment and, I would say that on an average Democratic primary day, the turnout would be, in the more affluent areas and in your Anglo areas on the northside, would

be in the range of sixty-five percent.

Q How does the candidate for election turn people out on election day in the Mexican-American areas?

A Well, it's a very complicated -- it's a very complicated process and it's an expensive process because it involves a lot of people and it's not a matter of hiring people so much, but there are linguistics problems, there's gasoline, so forth. Essentially it's a door-to-door, house-to-house, walking type of thing -- that's -- that is also -- the reason and the need for this goes back to the reason why people don't register to vote and this is that they are poor, there's a language barrier, they have so many other more pressing needs and interests, including their livelihood, the need to work and earn and take care of their pressing needs in the family, that in order to -- it's necessary to remind these people, number one, of the election and of the need to go and vote and participate, complicated process.

Q And in the Anglo areas how does a candidate turn out voters?

A I think it's far easier in the Anglo areas and in the northside, the more affluent areas to turn voters out. In the first place, they have a history of turning out and they are accustomed to turning out and they do so voluntarily without any encouragement, by and large. Second, they are well aware of the election, they follow the television, the

newspapers ads, and, of course, candidates will mail out in the northside whereas they do not mail out in the southside, frequently, and also there's candidates that can engage in massive telephone -- intensive telephone campaigns on election day to urge friends and voters to come out and vote on the northside. You can't do that in the southside for the reason that a great many of the people don't have telephones.

Q Besides the problems in voter registration and turnout and the other problems that you've described, what other factors do Mexican-Americans face in the electorial contest?

A What -- would you repeat that?

Q Besides the problems in voter registration turnouts and the other matters that you mentioned, what other factors or problems do Mexican-Americans face in an electorial contest?

A Well, you mean, Mexican-American candidates, let's say?

Q Yes.

A Mexican-American candidates in El Paso County run with an enormous handicap and the handicap is multilayered. It's financial. It's -- to run countywide is very expensive in El Paso County. The cost of television and so forth, all of these factors, the Mexican-American, particularly the resident of the southside that I've frequently mentioned, do not have much money, don't have money for campaign

expenses. There is the -- there is an inate, inborn, let me say, racism that runs through El Paso. It's not -- it frequently is not too obvious, but there's no question and you can see it in every election poll. In the voting process, you can see where Anglos vote for Anglos and Anglos will eschew Mexican-American candidates. They'll eschew them regardless of where they come from in town, will always vote against them if they come from the southside; sometimes will vote for a Mexican-American if he lives in the Country Club areas or in the affluent areas, but the Mexican-Americans on the southside -- Mexican-Americans on the southside really have never had anybody in the State legislature at any time, and I think it's due to this that there's another factor and that's the factor of language that the -- the Mexican-American can be born and raised in El Paso, Texas, go to high school here and can go to college and can be a professional man and a very successful professional man and extremely learned in his field and still retain a Spanish accent. And this is because that the Spanish language may have been the primary language in the home, let's say, until the time he got into high school, got into a northside high school or even went away to college, went in the service or something like that where he was thrown in with folks that customarily speak English and for a candidate who may be a doctor or a lawyer or a professor or P.H.D. at

the college, whatever it may be, he still may have a lingering accent or a heavy Spanish accent and this is a tremendous handicap for a countywide candidate to go on television and hold himself out to office with this kind of an accent and it absolutely turns the Anglos off, and I would say this is a heavy factor, too.

Q Do you know of any instances of overt racial campaigning in elections against the Mexican-Americans?

A Well, times have changed in El Paso. In the old days, why, it was extremely overt. In last decade, I would say, that it's gone underground and there's no question that it exists and there's a -- there's a whisper-type of campaign. There are jokes made and other personal vilification based on this kind of thing, there's no doubt that it is a substantial and heavy factor in this county in elections.

Q Turning now to another matter, is there any slating or effective slating process for the Democratic -- for candidates for the Democratic nomination for the State House of Representatives in this district?

A Well, different groups, of course, support different candidates, but there's no slating in this county that I know of that will guarantee any person a victory, if that's what you mean.

Q There's no formal slating organization, then, is that right?

A No, that's correct. Different interest groups, of course, have different choices and they'll publish their choices, but there's no countywide formal slating that I think in the -- in the context you used the word.

Q If we, for example, does labor enforce here?

A Labor does enforce, that's correct but -- that's right. El Paso County is not a strong labor town, however, and there is this factor about it too, that I understand that our interest is in the Mexican-American voter in El Paso and in this particular context, labor -- it's -- it has a -- an influence, a -- certainly not an overwhelming influence or anywhere near that in El Paso County, but it does have an input in the electoral process, but the labor unions, even though they may not be racially motivated, frequently will avoid good Mexican-American candidates that might support laborers aims merely because, for the pragmatic reason that they don't believe that the Mexican-American candidate can win the race. They will choose to support an Anglo candidate, who is pro-labor, let's say, over a Mexican-American candidate who is pro-labor, for the expediency -- for the expedient reason that they believe that the Anglo can win.

Q What would it cost to wage a serious campaign for the State House of Representatives in the El Paso County multi-member district, total cost now?

A Well, we would estimate that a -- that a -- that a

skimpy budget of the kind that a candidate that has the backing of a lot of people that are willing to volunteer work might run should cost at least fifteen to twenty thousand dollars in this county; although, we might say that last year we witnessed some extremely expensive campaigns, there was the Senate race, the victorial -- the candidate that eventually won the Senatorial race from his district, which is not much larger than the county, spent well in excess of a hundred thousand dollars.

Q If there were single-member districts, what would it cost, in your estimation there?

A I think that the cost would be substantially reduced and brought within the means of -- brought much more within the means of a lot of good and wholesome candidates. I would think that the expense could be in the range of maybe several thousand dollars. One of the factors that would help this reduction, I think, would be that the great and high expense of television could be avoided for a candidate running from a smaller legislative district within the county.

Q For example, talking about these smaller districts, do the County Commissioners utilize television advertisements?

A Well, there are four County Commissioners in El Paso County and they have the county split up in about four equal precincts at this time and I do not remember in any Commissioner's race, that television media was used.

Q In your opinion, then, in a single-member district, could you go door-to-door and be very effective?

A I think that a good candidate with a minimal amount of money and with the support of people -- of persons, could really run a worthwhile campaign on a door-to-door basis and on a person-to-person basis within his own legislative district with the expenditure of almost no money.

Q Would you say, in light of all these matters we've discussed so far that it's substantially more difficult for Mexican-Americans to be elected in El Paso County than an Anglo?

A I think that the Mexican-American has an extremely tough job of winning any elected office in El Paso County countywide and is greatly handicapped. A candidate is handicapped and then, in addition, you have the factor that good men and women who would be good candidates and good office holders declined to run for office because of this great handicap and because of the strong likelihood of defeat. And rather than join an abortive and quixotic effort along these lines, why, will decline to run, and we're losing good people in office that way.

Q In your experience as County Chairman, have you asked people or suggested to people that they run for election, and have they expressed reluctance because of the size of the district and the problems we've discussed so far?

A Yes. There's no question that many good potential candidates have told me they will not run and can't afford to run because the likelihood of victory is remote and under those circumstances, they are unwilling to go to this abortive effort at great expense to themselves and their friends.

Q In the last several years, let's say, since 1960, where have all the candidates come from, can you describe generally the area?

A All of the candidates, even the few with Spanish surnames come from the northside of town. No candidates are ever elected from the southside of town. I can't think of any candidate at any time that's even been elected from the southside of town. And these are your -- and this is a very healthy percentage of the county, these are Mexican-Americans and they are poor Mexican-Americans.

Q In your opinion, as a long time political observer in El Paso County and former Democratic Chairman of the El Paso County, does the existence of past instances of discrimination against the Mexican-Americans preclude their effective participation in El Paso politics?

A Absolutely.

Q Would you say that the use of the multi-member district in El Paso County coupled with the majority play system in the runoff elections enhances the opportunity for racial

discrimination in El Paso County in elections in the El Paso County multi-member district?

A It certainly does.

Q Would you say that the size and the cost of running and the racism which you described acts to discourage candidate recruitment among Mexican-Americans?

A I mentioned that a little while back, and I would say absolutely yes.

Q Do you know how many Mexican-Americans since reconstruction have run for the State House of Representatives?

A Thinking back, I would say in the range of maybe six or eight total that are Spanish surname or Mexican-American, but as I said, I don't think any of those really come from the southside, even the Mexican-Americans that run for the legislature or have run for the legislature come from the northside, affluent and country club areas.

Q Once again, in your opinion, does the multimember district in El Paso County operate to dilute, minimize or cancel out the voting strength of the Mexican-American in El Paso County?

A Yes.

Q If there were single-member districts in El Paso County, no matter how they were drawn, how many Mexican-Americans would you expect to be elected from the county?

A Well, I think that fairly that there ought to be, maybe

two out of four.

Q At least two?

A Yes.

Q In your opinion, is the political process leading to the nomination and election equal of candidates for the Texas State House of Representatives in El Paso County equally open to participation by Mexican-Americans?

A No, the Mexican-Americans -- the Mexican-American, the great bulk of whom lives in the southside area, whom I described, is disenfranchised in El Paso and does not have an effective political place in this county.

MR. BLACK: I'm going to object to your answer to that question for the eighteenth time on the grounds that it's repetitive.

MR. KORBEL: Off the record.

(OFF THE RECORD.)

MR. GEORGE: I have some rather brief questions about two or three specific things.

EXAMINATION

BY MR. GEORGE:

Q In your description of the difference between the percentage of people with Mexican-American surnames and the percentage of registered voters with the Mexican-American surnames, you mentioned several factors. We are on the border between the United States and the Republic of

Mexico, are some of the people who live in El Paso County and have Spanish surnames aliens?

A Yes, that's true, there's an alien factor in the Spanish surname population in El Paso County.

Q All right. Is there anyway to know how many of those, what percentage it is?

A Outside of the census, the 1970 report, I think, would be your best authority there, and I'm not sure that factor is contained, but nonetheless, I would -- I believe -- not believe, it is my understanding that the -- that the factor of aliens in the country would be maybe in the range of say five percent or something like that, which would still put the Mexican-American citizen capable of voting in excess -- well in excess of fifty percent.

Q But they are some factor?

A Yes, that's correct.

Q In order to fill up on a small gap, can you describe briefly your role, your job, as the chairman of the Democratic Party in El Paso County?

A Well, it's the same here as any other county in the State. The Democratic County Chairman is responsible primarily, for handling the Democratic primary every two years, the county conventions every two years and calling the -- under statute, and calling meetings of the county committee made up of your precinct chairmen, causing the

election of precinct chairmen for -- in the event of vacancies, of course, over and beyond the statutory function, most county chairmen get deeply involved in the election process and in the support of Democratic candidates and I have done that.

Q On -- kind of on the same score, you mentioned we have made efforts to register voters and we have done this and that. Can you describe who you meant, generally, by we?

A Well, as Democratic County Chairman, it's -- it was my policy to encourage everybody and any group that wanted to be active in registering votes and there's been a variety of civic minded organizations over the years that have been interested in this, and these include, for instance, there's -- in 19 -- 1971, there was a very effective and intensive drive by the downtown civic clubs, El Paso civic clubs, including the Kiwanis, Lions, Rotary's and others to do this and that was one group that was very effective. And we helped them as much as we could. The student groups had been effective. The labor groups have been interested. The League of Women Voters, I think, has been very interested. And we have attempted to assist all of these different groups, anywhere they wanted to do, in any of their efforts to register voters, and these are the groups that I am referring to.

Q We, you mean the Democratic Party officials such as your-

self?

A That's correct. We did this, not as a party --

Q Not as party officials?

A Not as a function of the Democratic Party, but just on our individual motivation.

Q You mentioned that there are four County Commissioners, is that correct?

A That's correct.

Q And they run from single-member districts in El Paso?

A Yes, that's right.

Q If my math is correct, that's roughly seventy-eight thousand persons in each district?

A Yes, that's very close.

Q How many of those people have Spanish surnames?

A How many of the Commissioners?

Q (Indicating.)

A At this time two do.

Q Two out of the four?

A Yes.

Q Uh huh. And you say that those -- do you have any idea what the salary is for a County Commissioner?

A I can't follow -- I don't follow that county politics too good. I can't remember -- I think that -- they tried to get the wages up as much as they can constantly, and I think that the -- I'm not sure -- sometimes they are

successful and sometimes they are not. We tried to keep them down.

Q Well, what do you think?

A I think they are -- what are they making these days?

MR. BLACK: In Travis County they don't make nothing.

A You ought to tell them to come out here.

MR. KEMENDO: I know.

A Go ahead, Vince, how much is it?

MR. KEMENDO: Fifteen thousand dollars.

A Correct.

MR. BLACK: We'll stipulate it's fifteen thousand dollars from a learned witness.

MR. KEMENDO: They get a car allowance, too. I ran for the office.

Q (By Mr. George) Okay. So, we have stipulated that the salary for the County Commissioners is fifteen thousand dollars. Do you know what the salary is for a State Legislature?

A Somebody will have to fill me in on that, too, it seems to me it's forty-eight hundred dollars a year plus expenses and travel expenses and office expenses.

MR. KORBEL: We'll stipulate that that's what it is.

Q (By Mr. George) So, roughly one-third the salary of the County Commissioners. And your testimony was, I believe, that you have -- in living here forty-seven years

you have -- you do not recall any use of the broadcast, television media, for campaigning for these County Commissioner seats?

A I personally can't recall any. It may have occurred.

Q Certainly.

A I would say it would be very limited. I can't remember any.

Q Have -- it would be an unusual phenomena?

Q There's no necessity for television coverage for a person that's running in a single-member district like a Commissioner's precinct or like a legislative district because the -- when you buy this expensive television coverage, why, it covers the whole county, and in fact, covers the whole region, and because of the coverage, the expense is very high, but if you are running for a position that covers maybe only twenty percent of the county, sizewise, why, it would have -- very few people would be willing to buy television coverage to get to that limited number of listeners or viewers.

Q And you are basing that, not on speculation, but on your own experience of what does happen?

A I would say that, in my experience, as advising and managing campaigns, that we would not advise that there's -- would not advise the expense -- this particular expenditure.

Q Okay. Do you have any personal or have any knowledge

about -- personal knowledge or knowledge through your role as an observer of Democratic Party politics in El Paso County, expenses in contested races in these County Commissioner's races. Does any man send a hundred dollars or five hundred thousand dollars or five thousand or --

A I think the experience is that the candidates running for County Commissioners -- candidates running for County Commissioners spend substantially less than candidates running, let's say, for a county-wide office, such as the County Judge or for the legislature or any other county-wide office. You can run -- and I think, one of the incumbents at this time reported that he spent, maybe just several hundred dollars at the most during his victorious campaign for County Commissioner.

Q Was he opposed?

A He was opposed in the Democratic Primary and he was opposed in the November election, general election.

MR. GEORGE: Okay. That's all I have.

MR. KORBEL: I've got one other short thing.

FURTHER EXAMINATION

BY MR. KORBEL:

Q Are you aware of the -- generally of the public housing in El Paso, housing projects?

A In general, but no specialized knowledge.

Q And do you have an idea of what percent Mexican-Americans

and Blacks live in that public housing?

A The overwhelming percent, I'd say in excess of -- does this include the old age housing?

Q No, no, with exception of the old age housing.

A Just the public housing? I'd say in excess of ninety percent are Mexican-Americans.

Q And in the past, is it true that most of that public housing has been placed along the river in the Mexican-American areas?

A It has been placed in the southside areas that I have described.

Q In the past couple of years, have some of these projects been located in the northside or in the Anglo areas of town?

A Yes, that's true.

Q And to your knowledge, has there been any public reaction to the location of these housing projects?

A There has been a lot of -- well, say, protests by the Anglo residents of the northside areas when these -- when the housing projects were proposed to be built within their residential areas, yes.

MR. GEORGE: The only thing I have is to clear up a little bit about these County Commissioners.

FURTHER EXAMINATION

BY MR. GEORGE:

Q There are four legislatures elected at large from District Seventy-one, is that correct?

A There are four at large, that's correct.

Q So, at least, theoretically, if there were single member districts, they would reflect pretty much the same kind of districts the County Commissioners have?

A That's right.

MR. GEORGE: And result -- well, that's all I have.

EXAMINATION

BY MR. BLACK:

Q Mr. McAlmon, let me just ask you a few questions about -- I don't believe you've really told us too much except just inferentially about the makeup of El Paso County, geographically and with respect to the ethnic groups. I take it, from your testimony, that there is a, what you might describe as a Mexican-American ghetto or area which you refer to as the southside?

A Yes, that's right, I'd say you could call it a ghetto area, yes.

Q Is that the southside of the county or the City of El Paso or where is it?

A Well, it's geographically the southside of the county. It roughly runs south of Interstate 10 which runs right through the middle of the county from east to west.

Q And approximately how many Mexican-Americans reside in

that area, please, sir?

A Well, of course, they are not all Mexican-Americans that live in the area. The -- the -- you mean just population wise?

Q Yes, sir.

A I would have to look at the census tracts to give you a really intelligible answer on that.

Q Well, if you can't give me an intelligible answer, I don't want an answer.

A I would say -- I would say about, maybe forty percent of the county.

Q Of the whole county population or of the --

A Yes, the whole county population.

Q -- or of the Mexican-American population?

A No, of the whole county population.

Q Now, is that the only place where Mexican-Americans live in an isolated group in this area?

A Yes, Mexican-Americans live in every precinct in town, but there are some precincts may have two or three Mexican-Americans living in them or Spanish that you can see on the voter registration roles or in the population roles from their Spanish surname, and then, the southside, why, the overwhelming percentage in the range of -- in the range of anywhere from eighty-five to ninety-eight percent are Mexican-Americans.

Q Now, is there a County Commissioner elected in a precinct that includes that southside?

A Yes.

Q And is he from that area, what's his name?

A His name is Richard Telles. There are two Mexican-American commissioners. One is Richard Telles, who represents the west end of the southside and Rogelio Sanchez who represents the east end of the southside. Actually, I believe, the gentlemen reside, both of them reside -- would probably be -- do not reside in precisely the ghetto area because their precincts include some of the Anglo precincts as well as the southside precincts.

Q And they live in the Anglo area of their precincts?

A I'd say in general that's a correct statement.

Q All right, sir. So, you don't have anyone on the Commissioner's Court from the southside area, is that correct?

A I'd say that precisely lives in the southside, in the ghetto areas, no.

Q All right, sir. Is the County Judge -- I presume he makes up the fifth member of the Commissioner's Court?

A That's right.

Q Is he an Anglo?

A He's Anglo, that's right, he's Anglo.

Q All right. Do you know --

A We've never had a Mexican-American that's been a County Judge.

Q When he was elected last was when, 1972?

A '72.

Q Was he -- did he run a contested race at that time?

A Yes.

Q And who ran against him?

A An Anglo.

Q Did they use the television medium in their race?

A Yes, heavily.

Q Now, this Tax Assessor you say that put up all these roadblocks and obstacles on voter registration, has that problem been solved now or is that still a problem?

A I don't know. I haven't -- I have not talked to anybody. I'm not sure what groups are attempting to register voters at this time, and I've been out of contact with them.

Q I presume that Tax Collector and Assessor is an Anglo, is that correct?

A The present Tax Assessor-Collector is an Anglo.

Q Well, was the one that was giving you all the trouble an Anglo?

A I'm not sure exactly where the trouble came from. All I know is that the trouble came out of his office.

Q During the time that the trouble came out of the office of Tax Assessor and Collector --

A He was a Mexican-American.

Q All right, sir. Where was he from, what part of the County?

A He was -- he had -- he had a nice large house on the northside.

Q All right sir. Now, this -- the problems that you have had from employers, you mentioned one, Farah, or -- is that the right way to pronounce that?

A Yes.

Q Were there any others that you had any trouble with?

A That's the only one that I can remember as to two years ago.

Q Now, do you have -- I don't know whether -- how to exactly phrase the question but do you have any idea why Farah was doing this, I mean, was it because their employees were ninety-eight percent Mexican-Americans or if their employees had been ninety-eight percent Anglos, do you think they would have taken the same attitude or was this a racial thing they were doing or was it against their employees or why were they doing this or do you know?

A Well, I've not talked to the president of the company but this -- but the only inference that we can gain from his abject refusal for us to register his voters at our expense and with no trouble or expense to him was he didn't want them registered because he didn't want them to vote.

We have no other reasons -- we have no other -- there seems to be no other inference to draw from the decision -- the policy decision that he made.

Q You are assuming that if his employees had been Anglo that he wouldn't have taken this position?

A I think that's probably correct.

Q Do you think it's a logical assumption?

A I think there also is a factor that these are workers and that --

Q Are they members of a labor union?

A No. That there may be that he might have had in his mind -- that he might have had in his mind that these Mexican-American workers would vote against the candidates that he would have supported -- that he would support.

Q Now, I believe you are saying that if you had single member districts in this county that --

A Excuse me. I've got a hearing in district court at four p.m.

Q Well, I have a plane to catch; so --

A And I let time go by, I should have warned you about this a little earlier.

Q Well, I wish you would have warned your Counsel, because we didn't get started on this until fifteen minutes after we were supposed -- we do want our right to cross examine.

A Go ahead. I want to give it to you, but I'm going to have to go to a hearing, I'm going to be out of court.

Q Well, I'll try to --

A What time is your plane takeoff?

Q Four-forty-five.

A Okay. Let's go, I'm going to --

Q Well now, I just wanted to ask you a little bit, you're assuming that if you go to single-member districts that the people that run for the House of Representatives won't use the television media, that you are assuming?

A I'd say, yeah, that's right, most candidates would not.

Q Do you know what the experience has been in the counties of Texas that do have single member districts?

A I do not know that.

Q All right, sir. And I presume that experience would be of some moment to your opinion on that, wouldn't it?

A If I knew it -- it would -- might make a difference.

Q All right, sir. Now, how many Mexican-Americans are in your legislative delegation at the present time in the House? I believe your Senator is a Mexican-American?

A I don't believe we have any Mexican-Americans in

the House at this time.

Q Out of four?

A Out of five from this county. Well, there's four that

run at large and there's one who represents a portion of the south end of the county and other counties as well.

Q What was the significance in '70 -- this was the sixty-third legislature, what was the significance in the sixty-second legislature?

A That was the one before?

Q Uh huh.

A I think we had two Mexican-Americans in the legislature.

Q What happened to them, were they defeated or what?

A Well, they ran against each other for the Senate and those that -- all Mexican-Americans that ran for their places, as well as other places, were defeated.

Q What about in four years ago?

A Four years ago, there were three Mexican-Americans in the legislature.

Q All right, sir.

A And they were -- one of them was defeated that year.

Q Well, do you have any explanation for that, do you think conditions are getting worse in this county as far as the Mexican-American is concerned?

A Yes, I really think so, I think that --

Q But their voter registration is vastly increased, has it not?

A Well, not vastly, it's still nowhere near their numbers

percentage wise in the county, but it has increased over the years with great effort of those that -- with great effort of civic minded groups and persons that help them register.

Q Over the past, say, six years, over the past three sessions of the legislature, do you think that the El Paso County delegation to the House of Representatives has been responsive to the -- on issues in which the needs and interests of Mexican-Americans are involved?

A I would say that it's gotten progressively worse in that regard. And again, I'd like to say that regardless of the -- of the fact that there has been in the legislature representatives from El Paso with Spanish surnames or Mexican-Americans, but none of them --

Q I wish you'd answer my question, if we are in such a hurry. My question is about the bills and issues before the legislature and the response and the votes of the El Paso County delegation.

A All right. The record last year was very miserable, very, very poor.

Q Would you name one particular bill in which -- and how they voted?

A All right. Well, let's see, I think there was a vote on the Texas Minimum Wage Law.

Q All right. How was that, what was the vote on that?

A I think it was a -- I think it was a three to one vote against the minimum wage. The -- I would have to -- I'd have to get out some files and check the different legislative votes and also the precise legislation that was voted on to be able to give you that answer a little better.

Q What about the bill to establish bilingual education, do you think that's something that would be for the needs of Mexican-Americans?

A Yes, it sure would, and I can't tell you precisely what the vote was.

Q All right, sir. So your opinion about that is more general and based on specific fact?

A Yes, that's right, I'd say so.

MR. BLACK: All right sir. I don't believe I have any further questions.

* * * * *

THE STATE OF TEXAS |

COUNTY OF EL PASO |

I, Sharon Rasberry, Certified Court Reporter in El Paso County, Texas, do hereby certify that the facts stated and set forth in the caption hereto are true; that after the above named witness had been by me first duly sworn to tell the truth, the whole truth and nothing but the truth, the foregoing questions were propounded to him by the

attorneys heretofore named, and that the foregoing answers were made by said witness in respect thereto; that the foregoing questions, as well as the answers of said witness to said questions, were taken in stenotype by me and thereupon transcribed upon a typewriter.

GIVEN MY HAND, this twenty-eighth day of November, A.D., 1973.

SHARON RASBERRY
Certified Court Reporter in and for El Paso County, Texas.

I, George A. McAlmon, do hereby attest that my testimony on Pages Three through Forty-One is true and correct.

GEORGE A. MCALMON

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

WHITE	I	
VS.	I	CA NO. A-71-CA-143
REGESTER	I	

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